

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

UNITED STATES OF AMERICA, )  
 ) CR-18-00258-EJD  
 PLAINTIFF, )  
 ) SAN JOSE, CALIFORNIA  
 VS. )  
 ) APRIL 22, 2022  
 RAMESH "SUNNY" BALWANI, )  
 ) VOLUME 21  
 DEFENDANT. )  
 ) PAGES 3451 - 3696

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TRANSCRIPT OF TRIAL PROCEEDINGS  
BEFORE THE HONORABLE EDWARD J. DAVILA  
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S:

FOR THE PLAINTIFF: UNITED STATES ATTORNEY'S OFFICE  
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PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY  
TRANSCRIPT PRODUCED WITH COMPUTER

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34    ADMINISTRATION  
35    BY:    GEORGE SCAVDIS

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**ADAM ROSENDORFF**

CROSS-EXAM BY MR. COOPERSMITH (RES.)

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1 SAN JOSE, CALIFORNIA

APRIL 22, 2022

08:35AM 2 P R O C E E D I N G S

08:35AM 3 (COURT CONVENED AT 8:35 A.M.)

08:35AM 4 (JURY OUT AT 8:35 A.M.)

08:35AM 5 THE COURT: WE'RE ON THE RECORD IN THE BALWANI  
08:35AM 6 MATTER. ALL COUNSEL ARE PRESENT. MR. BALWANI IS PRESENT.

08:36AM 7 WE'RE OUTSIDE OF THE PRESENCE OF THE JURY.

08:36AM 8 WE WERE GOING TO DISCUSS A COUPLE OF MATTERS THIS MORNING.

08:36AM 9 FIRST OF ALL, COUNSEL, I THINK MS. ROBINSON PROVIDED YOU  
08:36AM 10 WITH A GRAPH, A GRAPHIC OF -- DO YOU HAVE THIS? -- OF THE  
08:36AM 11 JURY'S AVAILABILITY? DID THEY GET THAT?

08:36AM 12 THE CLERK: NO, I HAVEN'T GOT THAT. I APOLOGIZE.

08:36AM 13 THE COURT: OH, THIS ONE (INDICATING)?  
08:36AM 14 I THOUGHT IT WAS GOING TO BE PRINTED.

08:36AM 15 THE CLERK: I'LL ASK MICHELLE.

08:36AM 16 THE COURT: THANKS.

08:36AM 17 WE'LL GET YOU THIS IN JUST A MOMENT. IT'S A COMPILATION  
08:36AM 18 OF THE JURY'S AVAILABILITY FOR EXTENDED TIME, AND WE'LL GET YOU  
08:36AM 19 COPIES OF THAT IN JUST A MOMENT.

08:36AM 20 ALSO, IN REGARDS TO THE JURY, WE'VE HAD REQUESTS THAT THE  
08:36AM 21 JURORS BE ABLE TO MOVE THEIR SEATS INDEPENDENTLY, AND I'M GOING  
08:37AM 22 TO -- SOME OF THEM WANT TO MOVE ABOUT THE JURY BOX.

08:37AM 23 I DON'T THINK THAT'S APPROPRIATE TO -- I'VE TALKED ABOUT  
08:37AM 24 AN AIRLINE FLIGHT AND THIS IS NOT SELF-SELECT YOUR SEAT.

08:37AM 25 BUT WHAT I WILL DO IS HAVE THEM MOVE FRONT AND BACK AND

08:37AM 1 KIND OF LIKE A LINE CHANGE, AND MR. BOSTIC IS NOW FAMILIAR WITH  
08:37AM 2 THAT CONCEPT. SO WE'LL ALLOW THEM TO MOVE FRONT AND BACK TO  
08:37AM 3 ALLOW THEM TO CHANGE THEIR SEATING.

08:37AM 4 I THINK THERE'S BEEN A REQUEST FOR JUROR NUMBER 2,  
08:37AM 5 PERHAPS, TO MOVE TO A DIFFERENT SEAT. HE IS A TALLER  
08:37AM 6 INDIVIDUAL, AND JUST FOR TRIAL MANAGEMENT, I DON'T WANT HIM TO  
08:37AM 7 SIT IN FRONT OF SOMEONE AND BLOCK THEM.

08:37AM 8 SO WE'LL PROBABLY ASK HIM TO SIT IN MAYBE ONE OF THE  
08:37AM 9 CORNER SEATS. SO THAT'S THE ONLY CHANGE IN THE JURY  
08:37AM 10 COMPOSITION NOW.

08:37AM 11 ANY COMMENT ON THAT?

08:37AM 12 MR. SCHENK: NO, YOUR HONOR.

08:38AM 13 MR. COOPERSMITH: NO, YOUR HONOR.

08:38AM 14 THE COURT: OKAY. THANK YOU.

08:38AM 15 I ALSO ASKED MS. ROBINSON TO PROVIDE YOU WITH COPIES OF A  
08:38AM 16 MOTION THAT WILL BE CALENDARED THAT WILL BE HEARD ON MONDAY, I  
08:38AM 17 THINK, ON OUR REGULAR CRIMINAL CALENDAR.

08:38AM 18 I DON'T KNOW IF YOU WERE SERVED OR IF YOU RECEIVED A COPY  
08:38AM 19 OF THESE PLEADINGS, THAT IS, IF YOU WERE SERVED BY THE MOVING  
08:38AM 20 PARTY OR NOT.

08:38AM 21 BUT IT'S SCHEDULED FOR MONDAY AT 1:30. I JUST WANTED YOU  
08:38AM 22 TO HAVE COPIES OF THE PUBLIC FILINGS FOR WHATEVER REASON AND  
08:38AM 23 INTEREST YOU MIGHT HAVE.

08:38AM 24 MR. COOPERSMITH: IS THIS THE MOTION BY MR. RAFAT?

08:38AM 25 THE COURT: YES. YES.

08:38AM 1 MR. COOPERSMITH: THANK YOU. YES, WE'VE RECEIVED  
08:38AM 2 THAT.

08:38AM 3 MR. SCHENK: YOUR HONOR, JUST ONE QUESTION ON  
08:38AM 4 THAT --

08:38AM 5 THE COURT: OH, THAT'S BETTER.

08:38AM 6 THE CLERK: SORRY.

08:38AM 7 MR. SCHENK: WOULD THE COURT BENEFIT FROM THE  
08:39AM 8 GOVERNMENT'S PRESENCE AT THE HEARING ON MONDAY?

08:39AM 9 THE COURT: IT'S A MOTION INTERVENE IN THE CASE, AND  
08:39AM 10 YOU'RE PARTIES IN THE CASE.

08:39AM 11 I READ THE DECLARATION. THE DECLARATION SUGGESTS THAT  
08:39AM 12 YOU'VE BEEN SERVED. I DON'T KNOW IF YOU HAD OR NOT. THE COURT  
08:39AM 13 IS NOT ACTING AS AN AGENT OF THE MOVING PARTY IN PROVIDING YOU  
08:39AM 14 COPIES. THESE ARE ON THE PUBLIC DOCKET, OF COURSE.

08:39AM 15 BUT I GIVE IT TO YOU FOR YOUR INFORMATION AS TO WHETHER OR  
08:39AM 16 NOT YOU FEEL YOU NEED TO BE PRESENT AT THE HEARING TO SPEAK AS  
08:39AM 17 TO WHETHER OR NOT AND WHAT ACTION THE COURT SHOULD TAKE ON THE  
08:39AM 18 PLEADINGS.

08:39AM 19 I DON'T KNOW IF YOU'VE SEEN THEM OR NOT. YOU DON'T HAVE  
08:39AM 20 TO ANSWER THAT, BUT I'VE JUST PROVIDED THEM TO YOU TODAY FOR  
08:39AM 21 YOUR BENEFIT AND YOUR CONSIDERATION.

08:39AM 22 MR. COOPERSMITH: THANK YOU, YOUR HONOR.

08:39AM 23 MR. SCHENK: THANK YOU.

08:39AM 24 THE COURT: ALL RIGHT. NEXT, LET'S TALK ABOUT --

08:39AM 25 LET'S SEE. I AM GOING TO READ THE STIPULATION IN DOCUMENT 1402

08:40AM 1 THIS MORNING TO THE JURY. THAT'S THE "WIRED" MAGAZINE ARTICLE,  
08:40AM 2 AS WE'VE DISCUSSED.

08:40AM 3 I HAVE READ AND REVIEWED -- AND MOVING ON TO ANOTHER  
08:40AM 4 TOPIC, I'VE READ AND REVIEWED THE REVISED PROPOSED ORDER  
08:40AM 5 SUBMITTED BY THE DEFENSE IN REGARDS TO A CURATIVE INSTRUCTION,  
08:40AM 6 AND THE COURT HAS CONSIDERED THIS, CONSIDERED THE COMMENTS OF  
08:40AM 7 COUNSEL AND THEIR ASSISTANCE IN THIS ISSUE, AND THE COURT,  
08:40AM 8 RESPECTFULLY, IS NOT GOING TO GIVE THIS. THE COURT DOES NOT  
08:40AM 9 FEEL THAT THE CONDUCT THAT OCCURRED IN THE EXAMINATION OF THE  
08:40AM 10 WITNESS CAUSES -- MR. EDLIN, CAUSES AND RISES TO THE LEVEL THAT  
08:40AM 11 A CURATIVE INSTRUCTION IS APPROPRIATE.

08:40AM 12 I DON'T BELIEVE IT IS IN THIS MATTER. SO I'M GOING TO  
08:40AM 13 RESPECTFULLY DECLINE THE INVITATION TO GIVE THIS INSTRUCTION.

08:40AM 14 SO THANK YOU FOR THAT.

08:40AM 15 MR. COOPERSMITH: THANK YOU, YOUR HONOR.

08:40AM 16 I DO UNDERSTAND THE COURT'S RULING, BUT WILL THE COURT  
08:41AM 17 CONSIDER AS AN ALTERNATIVE INSTRUCTING THE JURY TO DISREGARD  
08:41AM 18 THE QUESTIONS AND ANSWERS?

08:41AM 19 THE COURT: NO. THANK YOU.

08:41AM 20 MR. COOPERSMITH: OKAY. THANK YOU, YOUR HONOR.

08:41AM 21 THE COURT: YOU'RE WELCOME.

08:41AM 22 AND FOR THE SAME REASONS.

08:41AM 23 NEXT, LET'S TALK ABOUT DOCUMENT 1381. THAT IS THE BENCH  
08:41AM 24 MEMORANDUM REGARDING EVIDENCE OF PRIOR INCONSISTENT STATEMENTS.  
08:41AM 25 THIS WAS FILED BY THE DEFENSE.



MR. COOPERSMITH, ANYTHING ELSE ON THIS?

MR. COOPERSMITH: MY COLLEAGUE, MS. SCHURICHT, HAS  
HOPEFULLY A BRIEF PRESENTATION OF THAT ISSUE.

THE COURT: SURE.

MR. COOPERSMITH: AND I THINK MR. BOSTIC IS PREPARED  
TO SPEAK TO THAT ISSUE AS WELL.

THE COURT: OKAY.

GOOD MORNING.

MS. SCHURICHT: GOOD MORNING.

MAY I REMOVE MY MASK?

THE COURT: PLEASE.

MS. SCHURICHT: GOOD MORNING, YOUR HONOR.  
SACHI SCHURICHT ON BEHALF OF MR. BALWANI.

I APPRECIATE HAVING TIME THIS MORNING TO DISCUSS ONE  
METHOD OF CROSS-EXAMINATION THAT THE DEFENSE MAY PURSUE WITH  
DR. ROSENDORFF, AND POTENTIALLY WITH OTHER GOVERNMENT WITNESSES  
AS WELL.

AS YOU LIKELY GATHERED FROM OUR BENCH MEMORANDUM, AND WE  
ALSO SENT A FEW VIDEO CLIPS TO THE COURT LAST NIGHT --

THE COURT: THREE.

MS. SCHURICHT: YES, THREE. AND APOLOGIES, WE HAD  
TO SEND THREE REPLACEMENT VIDEOS LATER IN THE EVENING.

THE COURT: I MAY NOT HAVE SEEN THOSE. I SAW ABOUT  
THREE LAST NIGHT OR SOMETHING LIKE THAT.

MS. SCHURICHT: I'M SORRY. WE CAN MAKE SURE YOU

08:42AM 1 HAVE THE PROPER ONES AVAILABLE IF YOU WOULD LIKE TO REVIEW  
08:42AM 2 THEM.

08:42AM 3 THE COURT: AND YOU'VE PROVIDED THE GOVERNMENT WITH  
08:42AM 4 THOSE AS WELL?

08:42AM 5 MS. SCHURICHT: YES, AND ADDITIONAL ONES AS WELL.

08:42AM 6 AS YOU GATHERED, WE THINK DR. ROSENDORFF HAS TESTIFIED  
08:42AM 7 WITH STATEMENTS THAT ARE INCONSISTENT WITH PRIOR STATEMENTS HE  
08:42AM 8 MADE UNDER OATH IN DEPOSITIONS IN RELATED CIVIL LITIGATION.

08:42AM 9 THE COURT: AND WHAT HAPPENS IN TRIAL WHEN THAT  
08:42AM 10 OCCURS?

08:42AM 11 MS. SCHURICHT: WELL, THERE ARE DIFFERENT APPROACHES  
08:43AM 12 THE DEFENSE CAN TAKE, YOUR HONOR. I THINK THERE'S KIND OF A  
08:43AM 13 CLASSIC FORM OF IMPEACHMENT WHERE THE DEFENSE MAY READ THE  
08:43AM 14 PRIOR INCONSISTENT STATEMENT AND CONFRONT THE WITNESS WITH IT  
08:43AM 15 ON THE STAND.

08:43AM 16 AS OUR MEMO EXPLAINED, WE THINK THE RULES ALSO PERMIT THE  
08:43AM 17 ADMISSION INTO EVIDENCE OF THE PRIOR INCONSISTENT STATEMENTS  
08:43AM 18 THEMSELVES IN THE MOST PROBATIVE FORM THAT IS AVAILABLE TO THE  
08:43AM 19 DEFENSE.

08:43AM 20 THE COURT: SO IS THERE A DISTINCTION BETWEEN 613  
08:43AM 21 AND 801?

08:43AM 22 MS. SCHURICHT: I THINK SO. I THINK THEY BOTH APPLY  
08:43AM 23 HERE.

08:43AM 24 RULE 801 MAKES CLEAR THAT A PRIOR INCONSISTENT MADE UNDER  
08:43AM 25 PENALTY OF PERJURY IN A LEGAL PROCEEDING IS NOT HEARSAY.

08:43AM 1 THE COURT: IT'S NOT HEARSAY.

08:43AM 2 MS. SCHURICHT: IT'S ADMISSIBLE FOR ITS TRUTH.

08:43AM 3 THE COURT: IT'S SUBSTANTIVE EVIDENCE THEN.

08:43AM 4 MS. SCHURICHT: EXACTLY.

08:43AM 5 AND HERE DR. ROSENDORFF HAS TESTIFIED ABOUT ISSUES THAT  
08:43AM 6 ARE HIGHLY MATERIAL TO THE CASE, AND WHEN THERE'S NO OTHER BAR  
08:43AM 7 TO THE ADMISSION OF THAT EVIDENCE, WE THINK A VIDEO RECORDING  
08:43AM 8 THAT SHOWS HIS DEMEANOR, HIS BODY LANGUAGE, OTHER VERBAL AND  
08:44AM 9 NONVERBAL INDICIA OF CREDIBILITY, WE THINK THAT'S THE MOST  
08:44AM 10 PROBATIVE SUBSTANTIVE EVIDENCE, AS YOU SAY, FOR THE JURY TO  
08:44AM 11 REVIEW.

08:44AM 12 THE COURT: HAVE YOU PREPARED A TRANSCRIPT OF THOSE  
08:44AM 13 DEPOSITIONS? I DIDN'T SEE THOSE.

08:44AM 14 DO YOU HAVE TRANSCRIPTS?

08:44AM 15 MS. SCHURICHT: WE DO. WE HAVE CREATED STAND ALONE  
08:44AM 16 EXCERPTS OF THE PRECISE STATEMENTS.

08:44AM 17 THE COURT: I SEE.

08:44AM 18 MS. SCHURICHT: AND I SHOULD SAY WE HAVE CREATED  
08:44AM 19 SHORT VIDEO CLIPS WHEN THAT IS AVAILABLE, FOR INSTANCE, FOR  
08:44AM 20 DEPOSITIONS THAT WERE VIDEO RECORDED.

08:44AM 21 IT'S POSSIBLE THAT DR. ROSENDORFF MAY TESTIFY IN A WAY  
08:44AM 22 THAT IS INCONSISTENT WITH, FOR INSTANCE, SOMETHING SAID AT THE  
08:44AM 23 HOLMES TRIAL.

08:44AM 24 WE, OF COURSE, DON'T HAVE A VIDEO RECORDING OF THAT, BUT  
08:44AM 25 WE'VE CREATED EXCERPTS OF THE TRANSCRIPT.

08:44AM 1 THE COURT: OKAY.

08:44AM 2 MS. SCHURICHT: AND JUST TO FINISH ANSWERING YOUR  
08:44AM 3 PRIOR QUESTION, RULE 613(B) I THINK ALSO APPLIES HERE, BUT  
08:44AM 4 ALLOWS THE ADMISSION OF EXTRINSIC EVIDENCE OF A PRIOR  
08:44AM 5 INCONSISTENT STATEMENT REGARDLESS OF WHETHER IT WAS MADE UNDER  
08:44AM 6 OATH OR NOT.

08:44AM 7 BUT THAT ALLOWS THE ADMISSION OF THIS EVIDENCE FOR  
08:45AM 8 IMPEACHMENT PURPOSES.

08:45AM 9 THE COURT: NOT AS SUBSTANTIVE EVIDENCE.

08:45AM 10 MS. SCHURICHT: RIGHT, RIGHT.

08:45AM 11 TO BE CLEAR, WE THINK THEY BOTH APPLY HERE. WE THINK IT'S  
08:45AM 12 ADMISSIBLE FOR ITS TRUTH AS WELL.

08:45AM 13 THE COURT: LET ME -- THE OBSERVATION THAT I WOULD  
08:45AM 14 MAKE ON THE VIDEOS THAT I'VE LOOKED AT, AND IT SOUNDS LIKE  
08:45AM 15 THEY'RE NOT THE ONES THAT YOU SEEK TO INTRODUCE, THEY'RE NOT  
08:45AM 16 THE UPDATED ONES, BUT I LOOKED AT A COUPLE OF THEM.

08:45AM 17 I DON'T KNOW THE CONTEXT -- EXCUSE ME. I DON'T KNOW  
08:45AM 18 THE -- WELL, THE CONTEXT OF WHEN THOSE WERE TAKEN, IF THEY WERE  
08:45AM 19 PART OF AN S.E.C. -- THEY CERTAINLY WEREN'T PART OF THE HOLMES  
08:45AM 20 TRIAL OR SOME OTHER CIVIL MATTER.

08:45AM 21 BUT WHAT I DID NOTE WAS THAT THERE WAS A ROLLING  
08:45AM 22 TRANSCRIPT, AS WE OFTEN SEE, AND WHICH CAPTURED OBJECTIONS FROM  
08:45AM 23 COUNSEL.

08:45AM 24 WHICH IS A PROBLEM, I THINK. I'M JUST GIVING YOU A HEADS  
08:45AM 25 UP ON THAT FOR THE VIDEO PURPOSE.

08:46AM 1 SO THAT'S A CONSIDERATION I WANT TO LEAVE YOU WITH FOR  
08:46AM 2 SHOWING THE VIDEOS. I'M NOT QUITE CONVINCED THAT THAT PORTION,  
08:46AM 3 SHOULD THE JURY RECEIVE THAT, THAT IT CONTAINS OBJECTIONS AND  
08:46AM 4 ALSO CONTAINED THE ROLLING SCRIPT, AND I DON'T KNOW IF YOU CAN  
08:51AM 5 MODIFY THAT OR NOT.

08:51AM 6 MS. SCHURICHT: I BELIEVE THAT MR. ALLEN CAN REMOVE  
08:51AM 7 THE ROLLING SCRIPT AT THE BOTTOM IF THAT'S THE COURT'S  
08:51AM 8 PREFERENCE.

08:51AM 9 AND THEN I THINK OF COURSE THE AUDIO STILL CAPTURES SOME  
08:51AM 10 OF THE ATTORNEY'S COMMENTS. I THINK FOR SOME OF THEM IT'S  
08:51AM 11 ALMOST INAUDIBLE BECAUSE THE WITNESS OR THE DEPONENT HIMSELF IS  
08:51AM 12 THE ONLY ONE MIKED UP.

08:51AM 13 I'M NOT SURE IF IT'S ANY COMFORT FOR THE COURT, BUT I WILL  
08:51AM 14 NOTE THAT THE JURY ALSO HEARS OUR OBJECTIONS HERE IN COURT AND  
08:51AM 15 IS INSTRUCTED THAT SHOULD NOT AFFECT THEIR INTERPRETATION OF  
08:51AM 16 THE ULTIMATE EVIDENCE.

08:51AM 17 THE COURT: AND IN COURT THEY GET THE BENEFIT OF THE  
08:51AM 18 COURT'S RULING.

08:51AM 19 MS. SCHURICHT: TRUE. THOUGH, FOR INSTANCE, IF AN  
08:51AM 20 OBJECTION IS OVERRULED, IT STILL APPEARS ON THE RECORD, THE  
08:51AM 21 JURY STILL HEARD IT.

08:51AM 22 SO I'M NOT SURE IT WOULD BE THAT CONFUSING TO THEM, BUT WE  
08:51AM 23 CAN CERTAINLY REMOVE THAT ROLLING SCRIPT.

08:51AM 24 THE COURT: OKAY. THAT WAS AN OBSERVATION I MADE.  
08:51AM 25 MR. BOSTIC.

08:51AM 1 MR. BOSTIC: THANK YOU, YOUR HONOR.

08:51AM 2 I DON'T THINK THE GOVERNMENT DISAGREES -- WELL, LET ME SAY  
08:51AM 3 THE GOVERNMENT DOESN'T DISAGREE WITH THE DEFENSE ABOUT THE  
08:51AM 4 PROTOCOL FOR INTRODUCING ANY INCONSISTENT STATEMENTS INTO  
08:51AM 5 EVIDENCE.

08:51AM 6 I AGREE THAT THAT IS PERMISSIBLE AND WE DON'T OBJECT TO  
08:51AM 7 THE VIDEO BEING USED.

08:51AM 8 I THINK IT'S IMPORTANT TO STRESS THE PROCESS BY WHICH THAT  
08:51AM 9 HAPPENS, AND HERE'S WHERE I'M SOMEWHAT CONCERNED THE PARTIES  
08:51AM 10 MIGHT END UP PARTING WAYS.

08:51AM 11 OBVIOUSLY FOR A PRIOR INCONSISTENT STATEMENT TO BE  
08:51AM 12 ADMISSIBLE UNDER THE RELEVANT RULE, IT MUST ACTUALLY BE  
08:51AM 13 INCONSISTENT WITH SOMETHING THAT THE WITNESS HAS SAID ON THE  
08:51AM 14 STAND.

08:51AM 15 I DID RECEIVE THE -- OR A BATCH OF PRIOR TESTIMONY  
08:51AM 16 EXCERPTS FROM THE DEFENSE LAST NIGHT.

08:51AM 17 THIS MORNING I RESPONDED TO THEM WITH SOME RULE 106  
08:51AM 18 ADDITIONS THAT THE GOVERNMENT FEELS ARE NECESSARY FOR SEVERAL  
08:51AM 19 OF THOSE.

08:51AM 20 I'M NOT SURE WHETHER THE DEFENSE OPPOSED ANY OR ALL OF  
08:51AM 21 THEM.

08:51AM 22 ACTUALLY, I'M INFORMED THAT THEY MAY AGREE WITH ONE, OR  
08:51AM 23 ONE MIGHT BE INCLUDED IN THEIR SELECTED EXCERPT.

08:51AM 24 BUT I THINK AS OF NOW, LOOKING AT THE SECTIONS THAT THE  
08:51AM 25 DEFENSE HAS PROPOSED, I'M HAVING TROUBLE SEEING THE LINE UP

08:51AM 1 BETWEEN THE PREVIOUS STATEMENTS THAT THEY WANT TO INTRODUCE AND  
08:51AM 2 ANY CONFLICTING TESTIMONY THAT DR. ROSENDORFF HAS GIVEN SO FAR.

08:51AM 3 SO I DON'T WANT TO GET AHEAD OF OURSELVES IF SOME OF THESE  
08:51AM 4 ARE OFFERED IN ANTICIPATION THAT HE MAY SAY SOMETHING  
08:51AM 5 INCONSISTENT DURING THE REST OF THE CROSS-EXAMINATION.

08:51AM 6 BUT TO THE EXTENT THAT THE DEFENSE THINKS THEY ARE RIPE  
08:51AM 7 NOW, AS TO ANY THAT THE DEFENSE THINKS THAT DR. ROSENDORFF HAS  
08:51AM 8 ALREADY TESTIFIED INCONSISTENTLY TO, IT MIGHT BENEFIT FROM SOME  
08:51AM 9 DISCUSSION NOW, BECAUSE I THINK EVEN BEFORE THE DEFENSE CAN  
08:51AM 10 REFER TO PRIOR TESTIMONY, EVEN ASKING THE WITNESS, DID YOU  
08:51AM 11 PREVIOUSLY TESTIFY, I THINK THAT NEEDS TO COME AFTER A PRIMA  
08:51AM 12 FACIE SHOWING HAS BEEN MADE OF AN INCONSISTENT STATEMENT.

08:51AM 13 I DON'T THINK THAT SHOWING HAS BEEN MADE YET.

08:51AM 14 MS. SCHURICHT: SO, FIRST OF ALL, I WILL CLARIFY,  
08:51AM 15 YES, SOME OF THE CLIPS THAT WE -- AND EXCERPTS THAT WE SHARED  
08:51AM 16 WITH THE GOVERNMENT LAST NIGHT WERE ANTICIPATORY AND WHETHER OR  
08:51AM 17 NOT WE SEEK TO ADMIT THEM WILL DEPEND ON HOW THE WITNESS  
08:51AM 18 TESTIFIES IN COURT TODAY. IF HE ANSWERS QUESTIONS CONSISTENTLY  
08:51AM 19 WITH HOW HE'S ANSWERED THEM IN THE PAST, WE'RE PERFECTLY HAPPY  
08:51AM 20 WITH THAT AND WILL NOT NEED TO INTRODUCE ADDITIONAL CLIPS.

08:51AM 21 THE THREE VIDEOS THAT WE SENT TO THE COURT -- AND AGAIN, I  
08:51AM 22 APOLOGIZE THAT THE REVISED ONES WERE SENT SO LATE.

08:51AM 23 THE COURT: 10:30, I THINK IT WAS 10:30 P.M.

08:51AM 24 AND I HAVE TO APOLOGIZE TO YOU, I DID NOT -- I WAS ON THE  
08:51AM 25 COMPUTER AT 10:30 LAST NIGHT, BUT I DIDN'T CHECK ECF FOR ANY

08:51AM 1 FILINGS, SO I DIDN'T NOTICE THEM.

08:51AM 2 MS. SCHURICHT: THAT'S QUITE UNDERSTANDABLE,  
08:51AM 3 YOUR HONOR.

08:51AM 4 I DO THINK FOR THOSE THREE EXCERPTS THERE HAS BEEN AN  
08:51AM 5 INCONSISTENCY ESTABLISHED BASED ON WHAT DR. ROSENDORFF HAS  
08:51AM 6 TESTIFIED TO ON WEDNESDAY.

08:51AM 7 I DID RECEIVE FOUR, I THINK, 106 ADDITIONS FROM THE  
08:51AM 8 GOVERNMENT THIS MORNING. I'D BE HAPPY TO TALK THROUGH THEM. I  
08:51AM 9 THINK WE MAY TAKE ISSUE WITH ONE OF THEM.

08:51AM 10 THE REMAINDER I THINK WE'RE ALREADY IN SUBSTANTIVE  
08:51AM 11 AGREEMENT, OR WE DON'T SEE A PROBLEM WITH THE ADDITIONAL  
08:51AM 12 PROPOSED CONTEXT.

08:51AM 13 SO PERHAPS I SHOULD RAISE THE ONE THAT THERE MAY BE  
08:51AM 14 DISAGREEMENT ABOUT.

08:51AM 15 THE COURT: RIGHT. AND FIRST OF ALL, LET ME -- I  
08:51AM 16 APPRECIATE THE OPPORTUNITY TO DISCUSS THIS BEFORE WE BEGIN.  
08:51AM 17 WE'RE ENDING TODAY AT ABOUT 2:45, SO I APPRECIATE OUR TIME  
08:51AM 18 BEFORE WE START EVIDENCE TO DISCUSS THESE ISSUES.

08:51AM 19 LOOKING FORWARD, I'M JUST CURIOUS IF THERE'S GOING TO BE  
08:51AM 20 ISSUES REGARDING THIS, ARE WE -- BUT WE SHOULD THINK ABOUT A  
08:51AM 21 PROTOCOL. ARE WE GOING TO STOP THE PROCEEDING AND REVIEW THE  
08:51AM 22 TRANSCRIPTS OR WHATEVER THEY ARE TO HAVE THE COURT MAKE A  
08:51AM 23 DECISION? IT SOUNDS LIKE THAT'S WHERE WE'RE HEADED.

08:51AM 24 MS. SCHURICHT: I'M HOPING WE CAN AVOID THAT  
08:51AM 25 SITUATION, YOUR HONOR.



08:51AM 1 THE COURT: YES, I AGREE. I SHARE THAT.

08:51AM 2 MS. SCHURICHT: SO WE SHARED A FULLER BATCH OF  
08:51AM 3 EXCERPTS WITH THE GOVERNMENT LAST NIGHT IN AN EFFORT TO GIVE  
08:51AM 4 THEM AN OPPORTUNITY TO PREVIEW -- AGAIN, THIS IS ALL A BIT  
08:51AM 5 ANTICIPATORY -- BUT TO PREVIEW WHAT WE MIGHT SEEK TO USE IN  
08:52AM 6 THIS MANNER.

08:52AM 7 SO I'M HOPING IF THERE ARE CONCERNS ABOUT THE DEGREE OF  
08:52AM 8 THE INCONSISTENCY OR POTENTIAL 106 ADDITIONS, THAT COULD BE  
08:52AM 9 RAISED QUITE EFFICIENTLY. THE 106 ADDITIONS HAVE ALREADY BEEN  
08:52AM 10 PROVIDED TO US, AND I THINK WE CAN WORK THAT OUT BEFORE WE MOVE  
08:52AM 11 TO INTRODUCE ANYTHING.

08:52AM 12 AS TO WHETHER OR NOT AN INCONSISTENCY HAS BEEN  
08:52AM 13 ESTABLISHED, I DO THINK THAT REQUIRES A STATEMENT BY STATEMENT  
08:52AM 14 ASSESSMENT.

08:52AM 15 I WOULD POINT YOUR HONOR TO SOME CASE LAW CITED ON PAGE 2  
08:52AM 16 OF OUR MEMORANDUM. I BELIEVE IT'S THE MORGAN CASE, THE TRAN  
08:52AM 17 CASE, WHICH SAY THAT THE NINTH CIRCUIT HAS ADOPTED, IN LINE  
08:52AM 18 WITH MOST OTHER CIRCUITS, A NON-TECHNICAL UNDERSTANDING OF  
08:52AM 19 INCONSISTENCY. THE STATEMENTS DO NOT NEED TO BE DIAMETRICALLY  
08:52AM 20 OPPOSED.

08:52AM 21 YOU UNDERSTAND.

08:52AM 22 SO I WOULD JUST SAY IF THERE'S A CLOSE CALL OR ANY  
08:52AM 23 AMBIGUITY AROUND WHETHER THE STATEMENTS ARE INCONSISTENT, I  
08:53AM 24 THINK IN THAT INSTANCE IT'S APPROPRIATE FOR THE JURY TO VIEW  
08:53AM 25 THE TWO STATEMENTS AND TO ASSESS FOR THEMSELVES HOW

08:53AM 1 INCONSISTENT THEY THINK THEY ARE.

08:53AM 2 THE COURT: SHOULD THE COURT REVIEW THAT BEFORE THAT  
08:53AM 3 PROCESS OCCURS?

08:53AM 4 MS. SCHURICHT: I THINK IF THE GOVERNMENT LODGES AN  
08:53AM 5 OBJECTION ON THIS QUESTION OF INCONSISTENCY, IT'S PERFECTLY  
08:53AM 6 PROPER FOR THE COURT TO DO THAT.

08:53AM 7 MR. BOSTIC: YOUR HONOR, I THINK, TO ANSWER THE  
08:53AM 8 COURT'S QUESTION ABOUT PROCESS AND PROTOCOL GOING FORWARD  
08:53AM 9 TODAY, THE GOVERNMENT HAS NO INTEREST IN NECESSARILY DELAYING  
08:53AM 10 PROCEEDINGS.

08:53AM 11 BUT AS LEAST AS TO THE THREE STATEMENTS THAT THE DEFENSE  
08:53AM 12 BELIEVES ARE RIPE FOR INTRODUCTION NOW, WE MIGHT BENEFIT FROM  
08:53AM 13 DISCUSSING THOSE AT THIS TIME TO SEE IF THE COURT AGREES THAT  
08:53AM 14 THOSE STATEMENTS WERE INCONSISTENT WITH A PRIOR TESTIMONY.

08:53AM 15 THE COURT: SURE. IS IT YOUR DESIRE TO INTRODUCE  
08:53AM 16 THOSE THIS MORNING, TO TOUCH ON THOSE?

08:53AM 17 MS. SCHURICHT: I THINK AT LEAST ONE OF THEM,  
08:54AM 18 YOUR HONOR. I'M NOT SURE ABOUT THE OTHER TWO.

08:54AM 19 THE COURT: WELL, LET'S TALK ABOUT THE ONE AT LEAST  
08:54AM 20 THAT IS BEFORE US.

08:54AM 21 MS. SCHURICHT: SO THIS ONE I THINK IS MARKED AS  
08:54AM 22 EXHIBIT 28052F.

08:54AM 23 UNFORTUNATELY, I ONLY HAVE ONE PRINTOUT WITH MY OWN NOTES  
08:54AM 24 OF THE PROPOSED ADDITION.

08:54AM 25 MR. BOSTIC: THAT'S OKAY. I HAVE ACCESS TO THEM.

08:54AM 1 THE COURT: I BEG YOUR PARDON. THIS IS EXHIBIT?

08:54AM 2 MS. SCHURICHT: IT'S 28052F.

08:54AM 3 THE COURT: AM I GOING TO FIND THIS IN ONE OF THESE

08:54AM 4 BINDERS?

08:54AM 5 MS. SCHURICHT: YOU ARE, BUT I HAVE A PRINTOUT

08:54AM 6 (HANDING.)

08:54AM 7 THE COURT: OH, LOVELY.

08:54AM 8 THANK YOU.

08:55AM 9 (PAUSE IN PROCEEDINGS.)

08:55AM 10 THE COURT: OKAY. THANK YOU.

08:55AM 11 MS. SCHURICHT: YEAH. SO I'VE HANDED UP THE EXCERPT

08:55AM 12 THAT I'VE JUST REFERENCED, AND THEN I BELIEVE HIGHLIGHTED IN

08:55AM 13 YELLOW IS THE PORTION OF THE TESTIMONY FROM WEDNESDAY.

08:55AM 14 SO THE COURT MAY RECALL ON WEDNESDAY, I THINK ONE OF THE

08:55AM 15 GOVERNMENT'S FIRST QUESTIONS OF DR. ROSENDORFF WAS WHY HE

08:56AM 16 RESIGNED FROM THERANOS, AND I'VE HIGHLIGHTED HIS ANSWER HERE.

08:56AM 17 HE EXPLAINED THAT HE WAS INITIALLY EXCITED TO WORK AT THE

08:56AM 18 COMPANY, BUT AS TIME WENT BY -- AND I'M SKIPPING AHEAD TO

08:56AM 19 LINE 14 -- THE FREQUENCY AND SEVERITY OF COMPLAINTS THAT HE WAS

08:56AM 20 RECEIVING FROM CLINICIANS REALLY REACHED A CRESCENDO, "AND IT

08:56AM 21 GOT TO A POINT WHERE I FELT LIKE MY INTEGRITY AS A PHYSICIAN

08:56AM 22 WAS AT RISK."

08:56AM 23 AND THEN HE MENTIONS A CONCERN AS WELL ABOUT PROFICIENCY

08:56AM 24 TESTING.

08:56AM 25 THE EXCERPT THAT WE'VE ISOLATED HERE IN EXHIBIT 8 --

08:56AM 1 EXCUSE ME, 28052F IS FROM A DEPOSITION, I BELIEVE IN 2018 OR  
08:56AM 2 2019, WHERE DR. ROSENDORFF IS ALSO ASKED WHY HE STOPPED WORKING  
08:56AM 3 AT THERANOS, AND HIS ANSWER IS SIMPLY THAT HE WAS UNSATISFIED  
08:56AM 4 WITH MANAGEMENT'S RESPONSE ABOUT HIS PROFICIENCY TESTING  
08:57AM 5 CONCERNS.

08:57AM 6 AND THEN NOTABLY, THE QUESTIONER THERE FOLLOWS UP TWICE  
08:57AM 7 AND ASKS HIM IF THERE WERE ANY OTHER CONCERNS THAT LED TO HIS  
08:57AM 8 RESIGNATION, AND HE SAID THAT WAS THE MAIN ONE.

08:57AM 9 HE'S ASKED AGAIN, WERE THERE SMALLER CONCERNS THAT YOU HAD  
08:57AM 10 IN ADDITION TO THE PROFICIENCY TESTING ONE?

08:57AM 11 AND HIS ANSWER IS NO.

08:57AM 12 WE THINK ON THIS DISCRETE QUESTION OF WHY HE DECIDED TO  
08:57AM 13 ULTIMATELY RESIGN FROM THE COMPANY, THERE IS -- EVEN THOUGH A  
08:57AM 14 DIAMETRICALLY OPPOSITE ANSWER IS NOT REQUIRED, WE THINK THOSE  
08:57AM 15 ARE PRETTY CONSISTENT.

08:57AM 16 THE GOVERNMENT HAS PROPOSED ADDING, I BELIEVE, OH, JUST  
08:57AM 17 ONE PAGE OF TESTIMONY FROM THE DEPOSITION -- WHICH, AGAIN,  
08:57AM 18 APOLOGIES, I DON'T HAVE A PRINTOUT.

08:57AM 19 MR. BOSTIC: YOUR HONOR, WITH PERMISSION, I HAVE A  
08:57AM 20 BINDER FOR THE COURT WITH TWO TRANSCRIPTS, THE ARIZONA  
08:57AM 21 DEPOSITION TRANSCRIPT AND THE COLMAN DEPOSITION TRANSCRIPT.  
08:57AM 22 THESE ARE TWO FROM WHICH THE DEFENSE HAS EXCERPTED.

08:58AM 23 IF I COULD PASS THAT UP TO THE COURT?

08:58AM 24 THE COURT: SURE. THANK YOU.

08:58AM 25 MR. BOSTIC: (HANDING.)

08:58AM 1 THE COURT: OKAY. AND YOU HAVE SOME 106 THAT YOU  
08:58AM 2 WOULD LIKE ME TO LOOK AT HERE?

08:58AM 3 MR. BOSTIC: YES, YOUR HONOR.

08:58AM 4 IN THE ARIZONA TRANSCRIPT, WHICH I BELIEVE IS THE FIRST  
08:58AM 5 TAB, THE DEFENSE'S EXCERPT, I BELIEVE, COMES FROM PAGE 167.

08:58AM 6 JUST A FEW PAGES LATER ON 177, DR. ROSENDORFF IS ASKED  
08:58AM 7 ABOUT THE CORRESPONDENCE THAT HE HAD WITH MS. HOLMES WHEN HE  
08:58AM 8 ASKED TO BE TAKEN OFF OF THE CLIA LAB LICENSE, THAT WAS  
08:58AM 9 EFFECTIVELY HIS RESIGNATION FROM THE COMPANY.

08:59AM 10 AND HE WAS ASKED ABOUT WHAT MADE HIM FEEL REAL  
08:59AM 11 UNCOMFORTABLE ABOUT WHAT WAS HAPPENING IN THE COMPANY, AND HE  
08:59AM 12 ANSWERED ABOUT LOSING CONFIDENCE IN THE ACCURACY OF THE LAB  
08:59AM 13 TESTING, BEING ASKED TO VOUCH FOR RESULTS THAT HE WAS NOT  
08:59AM 14 CONFIDENT IN, NOT KNOWING WHAT METHODS WERE BEING USED.

08:59AM 15 SO JUST A FEW MINUTES AFTER THE EXCERPT THAT THE DEFENSE  
08:59AM 16 IS OFFERING, HE PROVIDES A MORE FULL ANSWER TO THAT SAME  
08:59AM 17 QUESTION.

08:59AM 18 SO THE GOVERNMENT'S CONCERN IS THAT WITHOUT THIS  
08:59AM 19 ADDITIONAL TESTIMONY, THE JURY MIGHT BE LEFT WITH THE  
08:59AM 20 IMPRESSION THAT HE CAME UP WITH ADDITIONAL JUSTIFICATIONS FOR  
08:59AM 21 LEAVING IN BETWEEN THAT DEPOSITION AND TODAY.

08:59AM 22 THIS TESTIMONY A FEW PAGES LATER SHOWS THAT'S NOT THE  
08:59AM 23 CASE.

08:59AM 24 SO THE GOVERNMENT THINKS IT SHOULD COME IN WITH THAT  
08:59AM 25 DEFENSE EXCERPT UNDER RULE 106. IF NOT, IT SHOULD CERTAINLY BE

08:59AM 1 ADMISSIBLE AS A PRIOR INCONSISTENT STATEMENT.

08:59AM 2 THE COURT: COUNSEL.

08:59AM 3 MS. SCHURICHT: SO I WILL JUST MAKE CLEAR THAT WE  
08:59AM 4 DON'T, WE DON'T DISAGREE THAT THE GOVERNMENT HAS AN OPPORTUNITY  
09:00AM 5 TO ELICIT ADDITIONAL TESTIMONY FROM DR. ROSENDORFF.

09:00AM 6 IF HE HAS -- I BELIEVE HE ALREADY TESTIFIED ON WEDNESDAY  
09:00AM 7 THAT HE WAS ASKED TO BE REMOVED FROM THE CLIA LICENSE AND FELT  
09:00AM 8 A CERTAIN LEVEL OF DISCOMFORT WITH THAT, AND HE CAN CERTAINLY  
09:00AM 9 BE ASKED ABOUT THAT AGAIN ON REDIRECT AND THE GOVERNMENT CAN  
09:00AM 10 ASK HIM TO EXPLAIN ANY INCONSISTENCY IN HIS PRIOR TESTIMONY  
09:00AM 11 THAT COMES OUT ON CROSS.

09:00AM 12 SO I'M NOT SURE THIS NEEDS TO BE ADDED TO THE EXCERPT  
09:00AM 13 ITSELF WHEN DR. ROSENDORFF WAS ASKED POINT-BLANK, WHY DID YOU  
09:00AM 14 RESIGN FROM THERANOS?

09:00AM 15 HE THEN WAS ASKED TWO FOLLOW-UP QUESTIONS, GIVING HIM  
09:00AM 16 FURTHER OPPORTUNITY TO EXPRESS ANY EVEN SMALLER CONCERNS.

09:00AM 17 WE DON'T, WE DON'T TAKE ISSUE WITH HIS, HIS -- YOU KNOW,  
09:00AM 18 WE CAN'T DENY IN HIS TESTIMONY THAT HE ASKED TO BE REMOVED FROM  
09:00AM 19 THE CLIA LICENSE BECAUSE OF DISCOMFORT WITH THAT, AND I'M NOT  
09:01AM 20 SUGGESTING HE CAN'T BE ASKED ABOUT THAT.

09:01AM 21 I JUST DON'T THINK THAT IT'S THE SAME ISSUE AS HIS ANSWER  
09:01AM 22 WHEN HE'S ASKED, WHY DID YOU RESIGN FROM THE COMPANY?

09:01AM 23 AND I CERTAINLY DON'T THINK HIS ADDITIONAL TESTIMONY TEN  
09:01AM 24 PAGES LATER IN THIS DEPOSITION IS NECESSARY UNDER RULE 106 TO  
09:01AM 25 AVOID LEAVING THE JURY WITH A MISUNDERSTANDING OF HIS ANSWER

09:01AM 1 TO, WHY DID YOU RESIGN?

09:01AM 2 THE COURT: I SEE. IT'S MORE A QUESTION OF TIMING  
09:01AM 3 IS WHAT I HEAR YOU SAYING.

09:01AM 4 YOUR PREFERENCE IS NOT TO HAVE THIS COME IN WITH THE  
09:01AM 5 INTIMACY OF YOUR PRIOR INCONSISTENT STATEMENT, BUT I HEAR YOU  
09:01AM 6 SAYING YOU RECOGNIZE THAT MR. BOSTIC, SHOULD HE DECIDE ON  
09:01AM 7 REDIRECT, TO INTRODUCE THIS, YOU WOULD HAVE NO OBJECTION.

09:01AM 8 MS. SCHURICHT: I THINK IF IT'S -- UNDER THE RULES,  
09:01AM 9 IF WE INTRODUCE PRIOR INCONSISTENT STATEMENTS, IF THERE IS A  
09:02AM 10 PRIOR CONSISTENT STATEMENT, THE RULE AUTHORIZES ITS ADMISSION.

09:02AM 11 THE COURT: AND THEN THE NINTH CIRCUIT, AS YOU TOLD  
09:02AM 12 ME, THE NINTH CIRCUIT TAKES A LIBERAL VIEW. THOSE DON'T HAVE  
09:02AM 13 TO BE PER SE AND BLACK AND WHITE INCONSISTENT, BUT THERE'S SOME  
09:02AM 14 LATITUDE IN THAT.

09:02AM 15 MS. SCHURICHT: YES, THERE'S A HIGH DEGREE OF  
09:02AM 16 FLEXIBILITY.

09:02AM 17 THE COURT: RIGHT. AND DO YOU THINK -- I'M SORRY TO  
09:02AM 18 INTERRUPT YOU.

09:02AM 19 BUT DO YOU THINK THAT THIS -- MR. BOSTIC'S EXCERPT WOULD  
09:02AM 20 FALL IN THAT CATEGORY?

09:02AM 21 MS. SCHURICHT: SO --

09:02AM 22 THE COURT: I'M ASKING YOU TO CONCEDE SOMETHING.

09:02AM 23 MS. SCHURICHT: I KNOW. I UNDERSTAND THAT.

09:02AM 24 I GUESS MY -- IF THERE'S A LINE OF QUESTIONING THAT WAS  
09:02AM 25 ASKED ON DIRECT EXAMINATION, IF WE THEN FOLLOW UP ON IT IN

09:02AM 1 CROSS-EXAMINATION, IT'S WITHIN THE SCOPE, I THINK HE HAS AN  
09:02AM 2 OPPORTUNITY TO PROBE THAT ISSUE FURTHER.

09:02AM 3 I'M NOT -- I DON'T THINK THAT THIS IS NECESSARILY  
09:03AM 4 INCONSISTENT WITH THE PRECISE ANSWER THAT HE GAVE SUCH THAT WE  
09:03AM 5 NEED TO, AGAIN, EXPAND OUR CLIP.

09:03AM 6 THE COURT: SURE. AND I APOLOGIZE. I DIDN'T MEAN  
09:03AM 7 TO PUT YOU ON THE SPOT WHERE YOU WERE GOING TO MAKE A  
09:03AM 8 CONCESSION ON THE RECORD HERE ABOUT A PIECE OF EVIDENCE AND  
09:03AM 9 OTHERWISE NOT PRESERVE ANY OBJECTION YOU MIGHT HAVE.

09:03AM 10 BUT I RAISE THE POINT, AS I SAID, TIMING IS WHAT IT IS.  
09:03AM 11 MY SENSE IS THE DEFENSE OBJECTS TO THE 106 COMING IN AT THE  
09:03AM 12 SAME TIME AS THE INCONSISTENT STATEMENT.

09:03AM 13 YOU RECOGNIZE THAT THE GOVERNMENT HAS, OR AN OPPOSING  
09:03AM 14 PARTY HAS THE OPPORTUNITY TO REHABILITATE, AS IT USED TO BE  
09:03AM 15 CALLED, AND YOU RECOGNIZE THE RULES PERMIT THAT?

09:03AM 16 SOMETHING ELSE?

09:03AM 17 MS. SCHURICHT: I'LL JUST SAY I THINK THE QUESTION  
09:03AM 18 ON WHETHER AN ADDITIONAL PIECE OF THE TRANSCRIPT CAN COME IN IN  
09:03AM 19 RESPONSE TO THE PRIOR INCONSISTENT STATEMENT, THE QUESTION  
09:04AM 20 REALLY IS WHAT THE ISSUE IS, WHAT THE TOPIC IS THAT IS BEING  
09:04AM 21 DISCUSSED IN THAT STATEMENT.

09:04AM 22 SO IN THIS INSTANCE IT'S THE REASONS FOR DR. ROSENDORFF'S  
09:04AM 23 RESIGNATION. IT'S NOT HIS, HIS DESIRE TO BE REMOVED FROM THE  
09:04AM 24 CLIA LICENSE.

09:04AM 25 HE COULD HAVE SAID, IN RESPONSE TO THAT DEPOSITION



09:04AM 1 QUESTION, I RESIGNED BECAUSE I WAS UNCOMFORTABLE BEING ON THE  
09:04AM 2 CLIA LICENSE, AND HERE ARE THE REASONS THAT I WAS UNCOMFORTABLE  
09:04AM 3 BEING ON THE CLIA LICENSE.

09:04AM 4 INSTEAD, HE REFERRED SOLELY TO PROFICIENCY TESTING.

09:04AM 5 AND SO I THINK IF WE THINK ABOUT THE TOPICS AS HIS REASONS  
09:04AM 6 FOR RESIGNING, IT IS A SEPARATE, DISCRETE TOPIC FROM THESE  
09:04AM 7 OTHER CONCERNS ABOUT THE LICENSE OF THE LAB.

09:04AM 8 THE COURT: OKAY.

09:04AM 9 MR. BOSTIC: ON THAT, YOUR HONOR, IF THE LAW TELLS  
09:04AM 10 US NOT TO TAKE AN OVERLY TECHNICAL READ OF WHAT IS CONSISTENT  
09:04AM 11 AND WHAT IS INCONSISTENT, THEN THAT'S A DISTINCTION WITHOUT A  
09:04AM 12 DIFFERENCE.

09:04AM 13 DR. ROSENDORFF TESTIFIED WHEN HE WAS ON THE STAND IN THIS  
09:04AM 14 TRIAL THE DAY BEFORE YESTERDAY THAT WHEN HE ASKED TO BE TAKEN  
09:05AM 15 OFF OF THE CLIA LICENSE, I'M PARAPHRASING, BUT THAT WAS  
09:05AM 16 ESSENTIALLY THE SAME THING AS HIM RESIGNING FROM HIS POSITION  
09:05AM 17 AS LAB DIRECTOR WHICH REQUIRED HIM TO BE ON THAT CLIA LICENSE.

09:05AM 18 SO WE ARE TALKING ABOUT THE SAME TOPIC HERE.

09:05AM 19 I DON'T KNOW WHY WHEN HE WAS FIRST ASKED THAT QUESTION HE  
09:05AM 20 DIDN'T INCLUDE THESE TOPICS IN HIS INITIAL ANSWER.

09:05AM 21 BUT WHEN, SO SOON AFTER THAT FIRST ANSWER, HE THEN IS  
09:05AM 22 GIVEN AN OPPORTUNITY AND TAKES IT TO PROVIDE A MORE FULSOME  
09:05AM 23 EXPLANATION, THE QUESTION BECOMES, IS THAT FIRST STATEMENT  
09:05AM 24 ACTUALLY INCONSISTENT? HOW BROADLY SHOULD WE LOOK AT HIS PRIOR  
09:05AM 25 TESTIMONY?

09:05AM 1 AND HERE I THINK WHERE IT FOLLOWS IN SUCH CLOSE PROXIMITY,  
09:05AM 2 NOT ONLY IS IT ADMISSIBLE UNDER THE RULE 104 PRIOR INCONSISTENT  
09:05AM 3 STATEMENT BUT IT ACTUALLY SHOULD COME IN UNDER RULE 106 BECAUSE  
09:05AM 4 THIS WAS ALL ADDRESSING THE SAME TOPIC DURING THAT DEPOSITION.

09:05AM 5 AND WHILE THE GOVERNMENT IS HAPPY TO FIX ANY  
09:06AM 6 MISUNDERSTANDING ON THE PART OF THE JURY DURING REDIRECT,  
09:06AM 7 THERE'S NO WAY THAT THEY SHOULD HAVE TO WAIT SEVERAL DAYS TO  
09:06AM 8 HAVE THAT MISIMPRESSION CLEARED UP.

09:06AM 9 THE COURT: OKAY. THANK YOU.

09:06AM 10 ANYTHING FURTHER?

09:06AM 11 MS. SCHURICHT: NOTHING ON THE SUBSTANCE OF THE  
09:06AM 12 RULES, YOUR HONOR.

09:06AM 13 I WOULD JUST SAY AT A MINIMUM, I THINK IT WOULD BE  
09:06AM 14 APPROPRIATE FOR US TO INTRODUCE THE EXCERPTS THAT WE'VE  
09:06AM 15 IDENTIFIED, ASSUMING THERE'S A SUFFICIENT INCONSISTENCY, AND IF  
09:06AM 16 THE GOVERNMENT FEELS THE NEED TO SUPPLEMENT THAT ON REDIRECT, I  
09:06AM 17 THINK THAT'S AN APPROPRIATE PROCEDURE.

09:06AM 18 THE COURT: OKAY.

09:06AM 19 MR. BOSTIC: I THINK THERE WERE TWO MORE EXCERPTS  
09:06AM 20 THAT THE DEFENSE THOUGHT THERE WAS ALREADY A SUFFICIENT  
09:06AM 21 INCONSISTENCY THAT THEY'RE READY TO INTRODUCE.

09:06AM 22 I'M NOT SURE IF NOW WOULD BE A GOOD TIME TO DISCUSS THOSE  
09:06AM 23 OR IF THERE WILL BE ANOTHER OPPORTUNITY, BUT THE GOVERNMENT  
09:06AM 24 WOULD LIKE TO ADDRESS THOSE WITH THE COURT IF THAT'S THE  
09:06AM 25 DEFENSE'S POSITION.

09:06AM 1 THE COURT: SHOULD WE DO THAT NOW OR DO YOU WANT  
09:06AM 2 SOME TIME TO MEET AND CONFER? IT'S ABOUT TEN AFTER 9:00 NOW.

09:06AM 3 MS. SCHURICHT: DO YOU MIND JUST TELLING ME THE  
09:07AM 4 NUMBERS FOR THEM --

09:07AM 5 THE COURT: LET'S -- LET ME DO THIS. LET ME HAVE  
09:07AM 6 YOUR CONVERSATION, I'LL ASK YOU TO MEET AND CONFER ON THAT IN A  
09:07AM 7 MOMENT.

09:07AM 8 AS TO THIS ISSUE WITH THE CURRENT, I'LL PERMIT THE -- OF  
09:07AM 9 COURSE, FOLLOWING THE RULES, IF THE DEFENSE WISHES TO INTRODUCE  
09:07AM 10 28052F AS AN INCONSISTENT STATEMENT, I'LL PERMIT THAT.

09:07AM 11 IS IT YOUR DESIRE TO PROVIDE A VIDEO OF THIS?

09:07AM 12 MS. SCHURICHT: YES. WE HAVE THEM ALL CUED UP.

09:07AM 13 THE COURT: OKAY.

09:07AM 14 MS. SCHURICHT: AND THEY'RE CURRENTLY PREPARED WITH  
09:07AM 15 THE ROLLING SCRIPT, BUT THAT'S EASILY REMOVABLE.

09:07AM 16 THE COURT: GREAT. AND LET ME SAY THAT MY  
09:07AM 17 PREFERENCE IS TO REMOVE THE ROLLING SCRIPT SUCH THAT I DON'T  
09:07AM 18 HAVE TO ADVISE THE JURY THAT -- WHAT WE ALL KNOW IS THAT THE  
09:08AM 19 STATEMENTS, THE SPOKEN WORDS ARE WHAT IS EVIDENCE, NOT THE  
09:08AM 20 TRANSCRIPT. I WOULD JUST AS SOON AVOID THAT WHOLE ISSUE IF WE  
09:08AM 21 CAN.

09:08AM 22 MS. SCHURICHT: SURE. I SHOULD MAKE ONE THING  
09:08AM 23 CLEAR, WHICH IS THAT WE HAVE CORRESPONDING TRANSCRIPT EXCERPTS  
09:08AM 24 THAT WE'VE CREATED ALONG WITH THE VIDEO CLIPS, SO WE WOULD SEEK  
09:08AM 25 TO ADMIT AND THEN PLAY FOR THE JURY THE VIDEO, AND THEN WE

09:08AM 1 DON'T NEED TO PUBLISH THE TRANSCRIPT EXCERPTS AT THE SAME TIME,  
09:08AM 2 BUT WE WOULD LIKE TO ADMIT THAT INTO EVIDENCE SIMPLY SO THE  
09:08AM 3 JURY HAS IT WITH THEM WHILE DELIBERATING, GIVEN THE KIND OF  
09:08AM 4 LOGISTICAL CHALLENGE OF COMING BACK IN TO RE-WATCH A VERY SHORT  
09:08AM 5 VIDEO CLIP.

09:08AM 6 THE COURT: ARE YOU SEEKING TO INTRODUCE THE VIDEO  
09:08AM 7 AS WELL?

09:08AM 8 MS. SCHURICHT: YES.

09:08AM 9 THE COURT: SO IF THE COURT ALLOWED THE VIDEO TO  
09:08AM 10 COME IN WITH THE TRANSCRIPT ON IT, WOULD THAT SOLVE THE PROBLEM  
09:08AM 11 OF YOUR TRANSCRIPT?

09:08AM 12 MS. SCHURICHT: OH, WITH THE ROLLING SCRIPT?

09:09AM 13 THE COURT: RIGHT.

09:09AM 14 MS. SCHURICHT: I THINK IT WOULD STILL BE USEFUL FOR  
09:09AM 15 THE JURY TO HAVE THE TRANSCRIPT EXCERPTS IN EVIDENCE SO THAT  
09:09AM 16 THEY COULD REVIEW THEM DURING DELIBERATIONS.

09:09AM 17 THE ROLLING SCRIPT I THINK IS HELPFUL IF THERE'S ANY  
09:09AM 18 DIFFICULT UNDERSTANDING THE VIDEO --

09:09AM 19 THE COURT: OKAY.

09:09AM 20 MS. SCHURICHT: BUT I DO THINK WE WOULD ADMIT BOTH.

09:09AM 21 THE COURT: OKAY.

09:09AM 22 MR. BOSTIC: I'LL DEFER TO THE COURT ON THAT ISSUE.

09:09AM 23 AND I'M HAPPY TO MEET WITH THE DEFENSE ON THE REMAINING  
09:09AM 24 CLIPS.

09:09AM 25 THE COURT: GREAT. LET ME ASK YOU TO DO THAT,

09:09AM 1 PLEASE, TO MEET ON THE REMAINING CLIPS.

09:09AM 2 DO YOU ANTICIPATE THAT THOSE WILL BE AN ISSUE TODAY? I'M  
09:09AM 3 SURE YOU'RE GOING TO FINISH YOUR CROSS-EXAMINATION OF THIS  
09:09AM 4 WITNESS TODAY, LIKELY BEFORE NOON?

09:09AM 5 (LAUGHTER.)

09:09AM 6 MS. SCHURICHT: YEAH, GIVEN THE PACING THIS MORNING,  
09:09AM 7 PROBABLY IN AN HOUR.

09:09AM 8 THE COURT: I'M ASKING YOU TO CONCEDE THINGS AGAIN,  
09:09AM 9 AREN'T I? I'M SORRY. I'M NOT GOING TO DO THAT AGAIN.

09:09AM 10 SO WHY DON'T YOU MEET AND CONFER ON THESE OTHERS IF YOU  
09:09AM 11 CAN.

09:09AM 12 AS FOR THE ISSUES TODAY ON THIS ONE, AND I'LL --  
09:10AM 13 MR. BOSTIC, I'M NOT GOING TO HAVE THAT PLAYED NOW, BUT IF YOU  
09:10AM 14 WISH TO INTRODUCE THAT IN REDIRECT, YOU'LL BE PERMITTED TO DO  
09:10AM 15 SO.

09:10AM 16 MR. BOSTIC: UNDERSTOOD. THANK YOU, YOUR HONOR.

09:10AM 17 THE COURT: OKAY.

09:10AM 18 MS. SCHURICHT: THANK YOU.

09:10AM 19 THE COURT: OKAY. WE'RE GOING TO PASS OUT OUR COLOR  
09:10AM 20 SHEETS NOW, AND YOU CAN LOOK AT THEM.

09:10AM 21 MR. COOPERSMITH.

09:10AM 22 MR. COOPERSMITH: YEAH, ONE OTHER MATTER LEFT OVER  
09:10AM 23 FROM WEDNESDAY IF I COULD JUST BRIEFLY HAVE YOUR ATTENTION?

09:10AM 24 THE COURT: SURE.

09:10AM 25 MR. COOPERSMITH: THANK YOU, YOUR HONOR.

09:10AM 1 THIS HAS TO DO WITH THE CLIA REGULATIONS.

09:10AM 2 THE EXHIBIT NUMBER WAS 7603DD, AND IT WAS A SET OF CLIA  
09:10AM 3 REGULATIONS THAT DEALT WITH THE DUTIES OF A LAB DIRECTOR AT A  
09:10AM 4 CLIA LABORATORY.

09:10AM 5 AND YOU MIGHT REMEMBER WE DISCUSSED WITH YOUR HONOR ON  
09:10AM 6 WEDNESDAY THE COURT'S CONCERNS ABOUT ADMITTING REGULATIONS, AND  
09:10AM 7 THE COURT SUGGESTED THAT MAYBE IT WOULD BE A DEMONSTRATIVE.

09:11AM 8 YOU HAVEN'T RULED ON WHETHER THAT'S PROPER, EITHER.

09:11AM 9 BUT IN THE MEANTIME, WE HAVE PREPARED A DEMONSTRATIVE. I  
09:11AM 10 HAVE GIVEN A COPY TO MR. BOSTIC, AND IF I COULD HAND THAT UP TO  
09:11AM 11 YOUR HONOR.

09:11AM 12 THE COURT: SURE.

09:11AM 13 MR. COOPERSMITH: WHAT WE DID WAS TRY TO PARE IT  
09:11AM 14 DOWN TO THE BARE MINIMUM OF WHAT WE THINK IS NECESSARY IN THE  
09:11AM 15 REGULATIONS.

09:11AM 16 THE COURT: ABSOLUTELY. OKAY. LET ME SEE YOUR  
09:11AM 17 WORK.

09:11AM 18 MR. COOPERSMITH: OKAY (HANDING).

09:11AM 19 (PAUSE IN PROCEEDINGS.)

09:11AM 20 THE COURT: MR. BOSTIC.

09:11AM 21 MR. BOSTIC: SO, YOUR HONOR, I SHARE THE COURT'S  
09:11AM 22 CONCERNS ABOUT THE REGULATIONS COMING INTO EVIDENCE, BUT I HAVE  
09:11AM 23 THE SAME CONCERNS ABOUT THEM BEING USED AS A DEMONSTRATIVE.

09:12AM 24 I THINK THE DISTINCTION BETWEEN WHAT IS IN EVIDENCE AND  
09:12AM 25 WHAT IS A DEMONSTRATIVE MATTERS A GREAT DEAL TO JURISTS, BUT TO

09:12AM 1 JURORS I THINK THAT HAVING THE LAW DISPLAYED ON A SCREEN IN  
09:12AM 2 FRONT OF THEM CARRIES SERIOUS RISK OF CONFUSING THE JURY AS TO  
09:12AM 3 WHAT THEY'RE SUPPOSED TO APPLY IN THIS CASE AND WHY THEY'RE  
09:12AM 4 BEING SHOWN THIS.

09:12AM 5 AND IT'S STILL NOT CLEAR TO ME WHY THEY WOULD BE SHOWN  
09:12AM 6 REGULATIONS THAT IMPOSE OBLIGATIONS ON THE LABORATORY DIRECTOR.

09:12AM 7 THE DANGER IS, OF COURSE, THAT MR. BALWANI IS ON TRIAL FOR  
09:12AM 8 WIRE FRAUD AND CONSPIRACY HERE, AND THOSE CHARGES RELATE TO  
09:12AM 9 ALLEGATIONS THAT HE KNOWINGLY DEFRAUDED PATIENTS BY CAUSING  
09:12AM 10 THEM TO RECEIVE TEST RESULTS THAT WERE NOT SUFFICIENTLY  
09:12AM 11 ACCURATE OR RELIABLE.

09:12AM 12 WHEN THE JURY SEES REGULATIONS THAT SAY THE LAB DIRECTOR  
09:12AM 13 IS RESPONSIBLE FOR THE ACCURACY OF THE TESTS, THE RUNNING OF  
09:13AM 14 THE TESTS, THEY MIGHT MISTAKENLY BELIEVE THAT THAT MEANS THAT  
09:13AM 15 MR. BALWANI CANNOT BE FOUND GUILTY OF THE CHARGES.

09:13AM 16 IF THAT'S NOT THE CASE LEGALLY, THEN WHY DO THEY NEED TO  
09:13AM 17 KNOW THAT THIS IS WHAT THE LAW PROVIDES? WHAT ARE THEY  
09:13AM 18 SUPPOSED TO DO WITH THIS?

09:13AM 19 ARE THEY SUPPOSED TO DECIDE WHETHER THIS IS IN CONFLICT  
09:13AM 20 WITH THE CHARGES AGAINST THE DEFENDANT? THAT'S A LEGAL  
09:13AM 21 QUESTION.

09:13AM 22 ARE THEY SUPPOSED TO WEIGH DR. ROSENDORFF'S CONDUCT  
09:13AM 23 AGAINST THE STANDARDS HERE?

09:13AM 24 MR. COOPERSMITH SAID THE OTHER DAY THAT THE PURPOSE OF  
09:13AM 25 THIS IS TO ESTABLISH THAT DR. ROSENDORFF UNDERSTOOD HIS JOB

09:13AM 1 RESPONSIBILITIES.

09:13AM 2 BUT THERE'S NO SIGN THAT HE DIDN'T, AND HE IS OBVIOUSLY IN  
09:13AM 3 THE BEST POSITION TO TESTIFY ABOUT WHAT THE POSITION OF LAB  
09:13AM 4 DIRECTOR MEANT AT THERANOS, WHAT WAS WITHIN HIS PURVIEW, WHAT  
09:13AM 5 WAS NOT, AND WHAT HE IT ON A DAILY BASIS. HE CAN TESTIFY ABOUT  
09:13AM 6 THAT WITHOUT REFERENCE TO THE REGULATIONS, AND CERTAINLY  
09:14AM 7 WITHOUT THE JURY SEEING AND SCRUTINIZING THE TEXT OF THE  
09:14AM 8 REGULATIONS.

09:14AM 9 MR. COOPERSMITH: YOUR HONOR, A FEW THINGS.

09:14AM 10 FIRST OF ALL, IT IS IMPORTANT TO ESTABLISH WHAT EXACTLY  
09:14AM 11 ARE DR. ROSENDORFF'S RESPONSIBILITIES AS THE LAB DIRECTOR.

09:14AM 12 AND AS I SAID THE OTHER DAY, AND I STICK TO THIS, WE'RE  
09:14AM 13 NOT SEEKING TO PICK OR CHERRY PICK EXACTLY WHAT DR. ROSENDORFF  
09:14AM 14 DID THAT IS IN VIOLATION OF THE REGULATIONS. IT'S JUST  
09:14AM 15 ESTABLISHING A BASELINE THAT THIS IS WHAT THE REGULATIONS  
09:14AM 16 PROVIDE, THIS IS WHAT A LAB DIRECTOR DOES.

09:14AM 17 BUT I WANT TO MENTION A COUPLE OF OTHER THINGS.

09:14AM 18 TO BRIEFLY REITERATE A POINT I MADE ON WEDNESDAY, THE  
09:14AM 19 GOVERNMENT HAS ALREADY GOTTEN BOTH DR. ROSENDORFF, AND  
09:14AM 20 DR. PANDORI BEFORE THAT, TO TESTIFY ABOUT WHAT THE DUTIES ARE  
09:14AM 21 UNDER THE LAW FOR PROFICIENCY TESTING.

09:14AM 22 YOU KNOW, THERE DIDN'T SEEM TO BE A CONCERN ON THE  
09:14AM 23 GOVERNMENT'S PART THAT THAT WAS GOING TO CONFUSE THE JURY ABOUT  
09:14AM 24 THAT.

09:14AM 25 THE COURT: I'M SORRY TO INTERRUPT YOU. CAN YOU



09:15AM 1 HELP ME WITH THAT?

09:15AM 2 THEY INTRODUCED EVIDENCE OF THE DUTIES UNDER THE LAW?

09:15AM 3 DID THEY INTRODUCE THE LAW IN THEIR CASE?

09:15AM 4 MR. COOPERSMITH: THEY INTRODUCED TESTIMONY THAT IN  
09:15AM 5 THE VIEW OF DR. PANDORI AND DR. ROSENDORFF, THE LAW REQUIRED  
09:15AM 6 CERTAIN THINGS FOR PROFICIENCY TESTING, NAMELY, IT REQUIRED  
09:15AM 7 THEM TO REPORT ON THE PRIMARY METHODS.

09:15AM 8 THE COURT: SURE.

09:15AM 9 MR. COOPERSMITH: THEY TESTIFIED THAT THE COMPANY  
09:15AM 10 WAS NOT DOING PT ON THE PRIMARY METHODS, WHICH THEY AT SOME  
09:15AM 11 POINT DEEMED TO BE THE EDISON METHOD, AND THEREFORE, THIS WAS A  
09:15AM 12 PROBLEM AND A VIOLATION THAT THE COMPANY WAS COMMITTING.

09:15AM 13 AND I DID NOT HEAR ANY COMMENT FROM THE GOVERNMENT THAT  
09:15AM 14 THAT WAS A DANGER OF CONFUSING THE JURY ABOUT WHETHER THE JURY  
09:15AM 15 WOULD THINK THAT MR. BALWANI IS GUILTY OF SOMETHING BECAUSE THE  
09:15AM 16 COMPANY DIDN'T FOLLOW THE LAW ON PT TESTING.

09:15AM 17 THE COURT: DID THE GOVERNMENT INTRODUCE EVIDENCE OF  
09:15AM 18 THE REGULATIONS EITHER AS A DEMONSTRATIVE OR SEEK TO INTRODUCE  
09:15AM 19 THE REGULATIONS IN THAT EXAMINATION?

09:15AM 20 MR. COOPERSMITH: THEY DID NOT, YOUR HONOR.

09:16AM 21 HOWEVER, I THINK AUTHORITATIVE TESTIMONY FROM TWO  
09:16AM 22 LABORATORY DIRECTORS WHO ARE QUALIFIED AS SUCH IS TANTAMOUNT TO  
09:16AM 23 THE SAME THING.

09:16AM 24 BUT I WANT TO --

09:16AM 25 THE COURT: SO WOULDN'T THAT APPLY TO YOUR

09:16AM 1 EXAMINATION, THAT YOU ASKED THEM THE SAME QUESTIONS AND THEY  
09:16AM 2 RESPOND WITH THEIR SAME OPINIONS, OR IN THIS CASE  
09:16AM 3 DR. ROSENDORFF'S SAME OPINIONS CONCURRENT WITH HOW HE RESPONDED  
09:16AM 4 TO THE GOVERNMENT'S? ISN'T THAT THE SAME THING?

09:16AM 5 MR. COOPERSMITH: I THINK THE FACT THAT THE  
09:16AM 6 GOVERNMENT CHOSE NOT TO INTRODUCE THE REGULATIONS, THEY DIDN'T  
09:16AM 7 OFFER ANYTHING, SHOULDN'T GOVERN HOW WE PROCEED.

09:16AM 8 AND THEY JUST NEVER OFFERED THE EVIDENCE. AND THERE WAS  
09:16AM 9 NOTHING STOPPING THEM FROM DOING THAT.

09:16AM 10 BUT I WANT TO GO TO A LARGER POINT, YOUR HONOR, WHICH IS A  
09:16AM 11 REAL CONCERN TO THE DEFENSE, AND THAT IS, THE GOVERNMENT HAS  
09:16AM 12 ACTUALLY FILED AN AFFIRMATIVE MOTION IN LIMINE ON THIS POINT.  
09:16AM 13 THEY WANT TO INTRODUCE A CMS INSPECTION REPORT FROM THE  
09:16AM 14 INSPECTION. YOUR HONOR MIGHT RECALL THAT WAS DONE AT THERANOS  
09:16AM 15 IN SEPTEMBER, STARTING IN SEPTEMBER OF 2015.

09:17AM 16 THEY WANT TO INTRODUCE AN INSPECTION REPORT THAT IS  
09:17AM 17 CHOCK-FULL OF ONE ALLEGED REGULATORY VIOLATION AFTER ANOTHER  
09:17AM 18 AND IT QUOTES THE REGULATIONS AND IT CITES THE REGULATIONS.

09:17AM 19 AND THE CMS REPORT ITSELF ACTUALLY QUOTES SOME OF THE SAME  
09:17AM 20 LABORATORY DIRECTOR REGULATIONS I THINK WE'RE TRYING TO ADMIT,  
09:17AM 21 BUT IT QUOTES A LOT OF OTHER REGULATIONS WHICH CMS IN THEIR  
09:17AM 22 VIEW BELIEVED THERANOS WAS VIOLATING.

09:17AM 23 AND I KNOW THAT IN THE HOLMES TRIAL YOUR HONOR, IN CLOSING  
09:17AM 24 INSTRUCTIONS, PROVIDED INSTRUCTIONS TO THE JURY THAT THE JURY  
09:17AM 25 SHOULD NOT CONSIDER VIOLATIONS OF THE CIVIL REGULATIONS AS

09:17AM 1 EVIDENCE OF ELEMENTS OF THE CRIME. I DO THINK THAT IS AN  
09:17AM 2 APPROPRIATE INSTRUCTION.

09:17AM 3 BUT WHEN THE GOVERNMENT IS SEEKING TO INTRODUCE A SET OF  
09:17AM 4 REGULATIONS THAT ARE QUOTED VERBATIM WITH CITATIONS IN THE CMS  
09:17AM 5 REPORT, IT DOESN'T, IT DOESN'T MAKE SENSE TO ME THAT THEY'RE  
09:17AM 6 TRYING TO THEN EXCLUDE OUR MUCH MORE MODEST EFFORT TO SHOW WHAT  
09:18AM 7 THE BASIC DUTIES OF A LAB DIRECTOR ARE BY REFERENCE TO THE  
09:18AM 8 REGULATIONS.

09:18AM 9 AND IF THE GOVERNMENT IS REALLY TAKING THIS POSITION THAT  
09:18AM 10 THESE REGULATIONS ARE GOING TO CONFUSE THE JURY, I DON'T THINK  
09:18AM 11 THE CMS REPORT SHOULD COME IN AT ALL BECAUSE IT'S JUST  
09:18AM 12 CHOCK-FULL OF THESE REGULATIONS WITH CITATIONS.

09:18AM 13 MR. BOSTIC: SO, YOUR HONOR, THE POINT OF THE CMS  
09:18AM 14 REPORT AS A PIECE OF EVIDENCE IN THIS CASE IS NOT FOR THE TEXT  
09:18AM 15 OF WHAT THE REGULATIONS REQUIRE, WHAT OBLIGATIONS THE LAW  
09:18AM 16 IMPOSES.

09:18AM 17 THE POINT OF THAT IS THAT THAT DOCUMENT PROVIDED NOTICE TO  
09:18AM 18 THE DEFENDANT ABOUT SERIOUS PROBLEMS AT THE LAB, AND IT ALSO  
09:18AM 19 SERVES AS DOCUMENTATION THAT THOSE PROBLEMATIC CONDITIONS WERE  
09:18AM 20 PRESENT AT THERANOS.

09:18AM 21 THIS ISSUE HAS BEEN LITIGATED BEFORE, IT SOUNDS LIKE IT  
09:18AM 22 MIGHT BE LITIGATED AGAIN IN THIS CASE, AND I DON'T WANT US TO  
09:18AM 23 GET SIDE-TRACKED INTO TALKING ABOUT THAT, ALTHOUGH I'M HAPPY TO  
09:18AM 24 ANSWER ANY QUESTIONS THAT THE COURT MIGHT HAVE.

09:18AM 25 WHEN IT COMES TO INTRODUCING THE TEXT OF THE REGULATIONS

09:18AM 1 ALONE AS A DEMONSTRATIVE OR AS A PIECE OF EVIDENCE, THE  
09:18AM 2 GOVERNMENT HAS NOT TRIED TO DO THAT, AND THAT WAS A DELIBERATE  
09:19AM 3 DECISION.

09:19AM 4 THE GOVERNMENT ALSO HAS NOT ASKED, I DON'T BELIEVE, ANY  
09:19AM 5 QUESTIONS DIRECTLY ELICITING TESTIMONY ABOUT WHAT THE LAW  
09:19AM 6 REQUIRED.

09:19AM 7 WE DID ASK QUESTIONS ABOUT WHY LABORATORY DIRECTORS TOOK  
09:19AM 8 CERTAIN ACTIONS, WHY THEY PERCEIVED CERTAIN PROBLEMS AS  
09:19AM 9 PROBLEMS, AND IN ANSWERING, THEY REFERRED TO THEIR LEGAL  
09:19AM 10 OBLIGATIONS.

09:19AM 11 BUT THAT'S NOT THE SAME THING AS PUTTING THE LAW IN FRONT  
09:19AM 12 OF THE JURY.

09:19AM 13 IF WHAT THE DEFENSE IS SEEKING TO DO IS A RESPONSE TO  
09:19AM 14 THAT, THEN THEY SHOULD PROCEED IN A SIMILAR MANNER. ASKING  
09:19AM 15 QUESTIONS TO DR. ROSENDORFF ABOUT HIS JOB RESPONSIBILITIES AND  
09:19AM 16 THE SCOPE OF HIS JOB AT THERANOS, THAT IS A MATCH FOR WHAT THE  
09:19AM 17 GOVERNMENT HAS DONE.

09:19AM 18 PUTTING THE LAW IN FRONT OF THE JURY CARRIES A 403 RISK.

09:19AM 19 MR. COOPERSMITH: YOUR HONOR, AS I SAID ON  
09:19AM 20 WEDNESDAY, OUR PREFERENCE WOULD BE TO INTRODUCE THE FULL  
09:19AM 21 EXHIBIT, 7603DD.

09:19AM 22 AS YOU'VE SEEN, WE'VE PREPARED A DEMONSTRATIVE. I THINK  
09:20AM 23 IT'S A RELATIVELY BRIEFER EXCERPT OF WHAT WE THINK ESTABLISHES  
09:20AM 24 THE BASE LINE OF THE LAB DIRECTOR'S RESPONSIBILITIES.

09:20AM 25 THIS IS VERY MUCH AT ISSUE IN DR. ROSENDORFF'S TESTIMONY.

09:20AM 1 I THINK IT'S IMPORTANT THAT THE JURY UNDERSTANDS WHAT IS A LAB  
09:20AM 2 DIRECTOR SUPPOSED TO DO AND --

09:20AM 3 THE COURT: SO YOU WANT THE JURY THEN TO TAKE THE  
09:20AM 4 DEMONSTRATIVE THEN AS THE LAW, AND TO MEASURE DR. ROSENDORFF'S  
09:20AM 5 TESTIMONY AS TO THE DEMONSTRATIVE? IT SOUNDS LIKE THAT'S WHAT  
09:20AM 6 YOU'RE ASKING THEM TO DO.

09:20AM 7 MR. COOPERSMITH: YOUR HONOR, I JUST THINK THAT I'M  
09:20AM 8 TRYING TO ESTABLISH, WHAT IS THE JOB OF A LAB DIRECTOR? WHAT  
09:20AM 9 ARE HIS DUTIES? RIGHT?

09:20AM 10 AND IF DR. ROSENDORFF WANTS TO SAY, YES, I UNDERSTAND THIS  
09:20AM 11 IS WHAT THE LAW REQUIRES MY DUTIES TO BE, BUT I DIDN'T FOLLOW  
09:20AM 12 MY DUTIES, I SUPPOSE HE'S FREE TO DO THAT.

09:20AM 13 BUT THAT'S IMPORTANT TO ESTABLISH, WHAT IS THE JOB OF THE  
09:20AM 14 LAB DIRECTOR? AND I THINK WE'RE ENTITLED TO SHOW THAT WITH  
09:20AM 15 EVIDENCE AND NOT JUST RELY ON THE WORDS OF DR. ROSENDORFF'S --  
09:20AM 16 WORDS FROM HIS OWN MOUTH, WHICH, YOU KNOW, FRANKLY WE DON'T  
09:20AM 17 TRUST AS MUCH AS WHAT IS IN THE WRITTEN REGULATION.

09:21AM 18 SO I THINK IT'S APPROPRIATE, ESPECIALLY GIVEN, AS I SAID,  
09:21AM 19 THE GOVERNMENT'S TESTIMONY THAT THEY ELICITED ON PT AND THEIR  
09:21AM 20 EFFORT, WHICH THEY ACTUALLY WON THAT RULING BEFORE YOUR HONOR,  
09:21AM 21 ON THE CMS REPORT, WHICH IS PUTTING THE LAW IN FRONT OF THE  
09:21AM 22 JURY.

09:21AM 23 I MEAN, ONCE THE JURY HAS THE CMS REPORT, THEY HAVE ALL OF  
09:21AM 24 THE LAW, ALL OF THE REGULATIONS, JUST THE SAME AS PUTTING THE  
09:21AM 25 REGULATION IN FRONT OF THE JURY IS THE SAME THING, EXACTLY THE

09:21AM 1 SAME TEST, EXACTLY THE SAME CITATIONS.

09:21AM 2 THE COURT: WHAT TYPE OF -- IF I ALLOW THIS, WHAT  
09:21AM 3 SHOULD I TELL THE JURY TO DO WITH THESE REGULATIONS?

09:21AM 4 MR. COOPERSMITH: I THINK IT'S APPROPRIATE TO TELL  
09:21AM 5 THE JURY THE SAME THING WE'RE HOPING THE COURT WILL TELL THE  
09:21AM 6 JURY ABOUT THE GOVERNMENT'S REGULATORY VIOLATION EVIDENCE, AND  
09:21AM 7 THAT IS THAT THESE REGULATORY VIOLATIONS ARE NOT TO BE  
09:21AM 8 CONSIDERED TO -- FOR THE ELEMENTS OF THE OFFENSE, AND THEY'RE  
09:21AM 9 ALSO NOT TO BE CONSIDERED FOR WHETHER DR. ROSENDORFF VIOLATED  
09:21AM 10 THE CLIA REGULATION. THAT'S NOT A PART OF THE CASE.

09:21AM 11 BUT IT'S JUST SIMPLY TO ESTABLISH WHAT ARE THE DUTIES OF A  
09:22AM 12 LAB DIRECTOR.

09:22AM 13 MR. BOSTIC: BUT WHY DOES THE JURY NEED TO KNOW WHAT  
09:22AM 14 THE LEGAL DUTIES OF A LAB DIRECTOR ARE IF THEY'RE NOT MEANT TO  
09:22AM 15 JUDGE DR. ROSENDORFF'S COMPLIANCE OR MISTAKENLY BELIEVE THAT  
09:22AM 16 THESE REGULATIONS HAD THE EFFECT OF REMOVING ANY CULPABILITY  
09:22AM 17 FROM THE DEFENDANT FOR THE CHARGES IN THIS CASE?

09:22AM 18 THE COURT: I THINK THAT'S THE PROBLEM THAT ARISES  
09:22AM 19 WITH THIS.

09:22AM 20 I ASKED YOU TO PREPARE DEMONSTRATIVES, AND THANK YOU FOR  
09:22AM 21 DOING THAT, IN RESPONSE TO THE COURT'S DECISION THAT I WASN'T  
09:22AM 22 GOING TO ADMIT THE REGULATIONS THEMSELVES. I JUST THOUGHT THAT  
09:22AM 23 WAS INAPPROPRIATE.

09:22AM 24 AND IN LOOKING AT THE DEMONSTRATIVES HERE, I'M NOT GOING  
09:22AM 25 TO PRECLUDE YOU FROM ASKING THE DOCTOR HIS UNDERSTANDING OF HIS

OBLIGATIONS. IF HE DOESN'T REMEMBER THEM, YOU CAN REFRESH HIS RECOLLECTION WITH THESE.

IF HE TESTIFIES TO SOMETHING, TO A CONDUCT THAT HE DID, YOU CAN ASK HIM IF HE FEELS THAT'S PART OF HIS DUTIES, AND THEN YOU COULD PERHAPS SHOW THIS TO HIM, WITHOUT SHOWING IT TO THE JURY, TO HAVE HIS RECOLLECTION REFRESHED OR SOMETHING.

I DO THINK THAT THERE IS GREAT RISK IN CONFUSION IF THE JURY IS SHOWN REGULATIONS AND THEN ASKED TO NOT MAKE A DECISION ABOUT REGULATIONS AND HIS CONDUCT, THEN A JURY -- IT SEEMS LIKE WHAT YOU'RE DOING IS THAT YOU'RE PUTTING THE DOCTOR'S LEGAL PERFORMANCE AND POTENTIAL LIABILITIES IN FRONT OF THE JURY, AND THERE'S A DANGER IN THAT THAT CAUSES ME SOME CONCERN.

I RESPECT AND APPRECIATE ON CROSS-EXAMINATION YOU WANT TO TEST HIS MEMORY OF HIS DUTIES AND THE THINGS THAT HE WAS SUPPOSED TO DO AND DIDN'T DO ACCORDINGLY.

BUT TO HAVE A SEPARATE ISSUE ABOUT, WELL, YOU DID VIOLATE THIS REGULATION THEN, DIDN'T YOU? I JUST DON'T SEE THE RELEVANCE IN THAT.

I DO THINK THAT YOU HAVE -- IF YOU DISAGREE WITH HIS CONDUCT AND HOW HE HANDLED THINGS, YOU CERTAINLY CAN PROBE THAT AND CROSS-EXAMINE THAT AND ASK HIM IF HE REALLY DOES FEEL THAT THAT WAS WITHIN HIS PURVIEW OR HE FELL SHORT OF HIS RESPONSIBILITIES.

I'M NOT GOING TO PRECLUDE YOU AT ALL FROM CROSS-EXAMINING AND PROBING HIM ON THAT.

09:24AM 1 BUT I DO THINK THAT THERE IS SOME GREAT RISK IN PUTTING  
09:24AM 2 THE LAW ON HIS DUTIES IN FRONT OF THE JURY AND THEN THE  
09:24AM 3 TEMPTATION IS FOR THE JURY TO THEN MAKE SOME LEGAL CONCLUSIONS  
09:24AM 4 THAT THEY SHOULDN'T BE TASKED WITH.

09:24AM 5 SO I'M NOT GOING TO ALLOW YOU TO USE THESE, AS YOU'VE  
09:24AM 6 PRESENTED THEM, TO THE JURY AS DEMONSTRATIVES.

09:24AM 7 YOU MAY BE ABLE TO USE THEM FOR SOME OTHER PURPOSE IN YOUR  
09:24AM 8 EXAMINATION, AND WE'LL SEE WHERE THAT GOES.

09:24AM 9 LET ME -- I THINK WE'VE PROVIDED YOU WITH THE SCHEDULES,  
09:25AM 10 AND WE'RE NOT GOING TO TALK ABOUT THAT NOW. YOU'LL NEED TO  
09:25AM 11 LOOK AT THOSE, I THINK, AND ABSORB THEM.

09:25AM 12 I THINK ONE OF THE JURORS INDICATED SHE HAS AN APPOINTMENT  
09:25AM 13 SET FOR NEXT -- IS THE 28TH, I THINK? IS THAT RIGHT?

09:25AM 14 I DON'T HAVE IT IN FRONT IT OF ME.

09:25AM 15 OH, HERE IT IS. YES.

09:25AM 16 (DISCUSSION OFF THE RECORD.)

09:25AM 17 THE COURT: WE HAVE ONE JUROR WHO HAS PATIENTS  
09:25AM 18 SCHEDULED AND INFORMS THAT SHE'S BOOKED UNTIL THE END OF MAY.

09:25AM 19 BUT LET'S LET YOU ABSORB THIS AND THEN AT THE BREAK MAYBE  
09:25AM 20 WE CAN HAVE SOME MORE CONVERSATION ON THAT.

09:25AM 21 MR. COOPERSMITH: YES, YOUR HONOR.

09:25AM 22 THE COURT: RIGHT.

09:26AM 23 ARE WE READY TO GO? IS EVERYTHING CLEAR WITH THE WITNESS?

09:26AM 24 MR. SCHENK: DR. ROSENDORFF TOOK A TEST THIS  
09:26AM 25 MORNING, AND THE TEST RESULT WAS NEGATIVE.



09:26AM 1 THE COURT: OKAY. THANK YOU. OKAY.

09:26AM 2 SHOULD WE BRING THE JURY IN THEN?

09:26AM 3 MR. COOPERSMITH: YES, YOUR HONOR.

09:26AM 4 IF I COULD TAKE A TWO MINUTE COMFORT BREAK, I WOULD

09:26AM 5 APPRECIATE THAT.

09:26AM 6 THE COURT: YES. EXACTLY.

09:26AM 7 (LAUGHTER.)

09:26AM 8 THE COURT: IT'S GOING TO TAKE US SOME TIME TO GET

09:26AM 9 THINGS ORGANIZED HERE, SO WE'LL BRING THEM IN THEN IN ABOUT

09:26AM 10 FIVE MINUTES.

09:26AM 11 MR. COOPERSMITH: THANK YOU.

09:26AM 12 MR. SCHENK: THANK YOU.

09:26AM 13 (RECESS FROM 9:26 A.M. UNTIL 9:36 A.M.)

09:36AM 14 (JURY IN AT 9:36 A.M.)

09:36AM 15 THE COURT: THANK YOU. GOOD MORNING. THANK YOU

09:36AM 16 AGAIN FOR YOUR COURTESY.

09:36AM 17 PLEASE BE SEATED.

09:36AM 18 WE'RE BACK ON THE RECORD IN THE BALWANI MATTER.

09:37AM 19 ALL COUNSEL ARE PRESENT. MR. -- THERE YOU ARE. ALL

09:37AM 20 COUNSEL ARE PRESENT. MR. BALWANI IS PRESENT.

09:37AM 21 OUR JURY AND ALTERNATES ARE PRESENT.

09:37AM 22 DR. ROSENDORFF HAS RETURNED TO THE STAND.

09:37AM 23 GOOD MORNING, LADIES AND GENTLEMEN. I'M SORRY FOR THE

09:37AM 24 DELAY. I HAD TO SPEAK WITH THE LAWYERS ABOUT SOME THINGS THIS

09:37AM 25 MORNING.

09:37AM 1 LET ME ASK YOU THAT QUESTION AGAIN. DURING OUR BREAK, HAS  
09:37AM 2 ANYONE HERE HAD OCCASION TO LEARN, DISCUSS, READ, OR SEE  
09:37AM 3 ANYTHING TO DO WITH THIS CASE? IF SO, PLEASE RAISE YOUR HAND.

09:37AM 4 I SEE NO HANDS. THANK YOU FOR THAT.

09:37AM 5 WE DID RECEIVE YOUR INFORMATION REGARDING AVAILABILITY FOR  
09:37AM 6 ADDITIONAL TIME, AND WE'VE COMPILED THAT IN SOME KIND OF A  
09:37AM 7 SPREADSHEET, AND WE'RE GOING TO DISCUSS THAT WITH COUNSEL TO  
09:37AM 8 SEE WHAT WE CAN DO.

09:37AM 9 THANKS FOR THAT.

09:37AM 10 WE'LL LET YOU KNOW WHEN AND IF WE CAN FILL SOME OF THOSE  
09:38AM 11 SPOTS.

09:38AM 12 BEFORE -- MR. COOPERSMITH, BEFORE YOU BEGIN YOUR, OR  
09:38AM 13 CONTINUE WITH YOUR EXAMINATION, LADIES AND GENTLEMEN, I DID  
09:38AM 14 WANT TO -- I NEGLECTED TO ADVISE YOU OF A STIPULATION THAT THE  
09:38AM 15 PARTIES HAVE REACHED, AND I APOLOGIZE, I SHOULD HAVE DONE THIS  
09:38AM 16 LAST WEEK.

09:38AM 17 BUT THE PARTIES DID REACH A STIPULATION AS TO SOME  
09:38AM 18 EVIDENCE IN THIS CASE.

09:38AM 19 COUNSEL, MAY I READ THIS STIPULATION NOW? THIS IS  
09:38AM 20 DOCUMENT 1402.

09:38AM 21 MR. COOPERSMITH: YES, YOUR HONOR. THANK YOU.

09:38AM 22 MR. BOSTIC: YES, YOUR HONOR.

09:38AM 23 THE COURT: THANK YOU.

09:38AM 24 THE STIPULATION, LADIES AND GENTLEMEN, IS AS FOLLOWS: THE  
09:38AM 25 "WIRED" MAGAZINE ARTICLE INCLUDED AS A LINK IN TRIAL

09:38AM 1 EXHIBIT 20458 AND DISCUSSED DURING DR. PANDORI'S TESTIMONY WAS  
09:39AM 2 PUBLISHED BY "WIRED" MAGAZINE ONLINE ON FEBRUARY 18TH, 2014.  
09:39AM 3 DID I READ THAT STIPULATION ACCURATELY, MR. COOPERSMITH?  
09:39AM 4 MR. COOPERSMITH: YES, YOUR HONOR.  
09:39AM 5 MR. BOSTIC: YES, YOUR HONOR. THANK YOU.  
09:39AM 6 THE COURT: ALL RIGHT. THANK YOU.  
09:39AM 7 LADIES AND GENTLEMEN, THE PARTIES HAVE AGREED TO THESE  
09:39AM 8 FACTS AS I'VE JUST READ THEM TO YOU. THOSE FACTS ARE NOW  
09:39AM 9 CONCLUSIVELY ESTABLISHED AND THEY'RE PART OF THE RECORD IN THIS  
09:39AM 10 MATTER.  
09:39AM 11 THANK YOU.  
09:39AM 12 MR. COOPERSMITH, ANYTHING FURTHER ON THIS?  
09:39AM 13 MR. COOPERSMITH: NO, YOUR HONOR. THANK YOU.  
09:39AM 14 THE COURT: MR. BOSTIC?  
09:39AM 15 MR. BOSTIC: NO, YOUR HONOR. THANK YOU.  
09:39AM 16 THE COURT: DO YOU HAVE QUESTIONS?  
09:39AM 17 MR. COOPERSMITH: YES, YOUR HONOR. THANK YOU.  
09:39AM 18 **(GOVERNMENT'S WITNESS, ADAM ROSENDORFF, PREVIOUSLY WAS**  
09:39AM 19 **SWORN.)**  
09:39AM 20 **CROSS-EXAMINATION (RESUMED)**  
09:39AM 21 BY MR. COOPERSMITH:  
09:39AM 22 Q. GOOD MORNING, AND WELCOME BACK, DR. ROSENDORFF.  
09:39AM 23 A. GOOD MORNING.  
09:39AM 24 Q. I JUST WANT TO BEGIN WHERE WE LEFT OFF ON WEDNESDAY, AND  
09:39AM 25 THAT'S WITH THE RESPONSIBILITIES OF THE LAB DIRECTOR.

09:39AM 1 SO JUST TO REFRESH, YOU WERE THE LAB DIRECTOR AT THERANOS  
09:39AM 2 DURING THE TIME THAT YOU WORKED THERE ONCE YOU BECAME THE LAB  
09:40AM 3 DIRECTOR ON THE CLIA LICENSE; IS THAT CORRECT?

09:40AM 4 A. CORRECT.

09:40AM 5 Q. OKAY. AND YOU UNDERSTAND THAT AS LAB DIRECTOR, YOU HAD  
09:40AM 6 CERTAIN DUTIES THAT WERE REQUIRED OF YOU AS LAB DIRECTOR; IS  
09:40AM 7 THAT RIGHT?

09:40AM 8 A. UNDER THE CLIA REGULATIONS, YES.

09:40AM 9 Q. RIGHT. AND I JUST WANT TO GO THROUGH A FEW OF THOSE.

09:40AM 10 SO YOU UNDERSTAND THAT A LABORATORY THAT IS -- WELL, LET  
09:40AM 11 ME STEP BACK FOR A MINUTE.

09:40AM 12 THE LABORATORY THAT YOU WERE RUNNING FROM THE FALL OF 2013  
09:40AM 13 AND UNTIL YOU LEFT THERANOS, THAT WAS WHAT IS KNOWN AS A HIGH  
09:40AM 14 COMPLEXITY LAB; IS THAT RIGHT?

09:40AM 15 A. CORRECT, CORRECT.

09:40AM 16 Q. AND A HIGH COMPLEXITY LAB IS WHERE THE LABORATORY CAN, IN  
09:40AM 17 ADDITION TO RUNNING FDA APPROVED EQUIPMENT TO TEST BLOOD, ALSO  
09:40AM 18 COULD RUN LABORATORY DEVELOPED TESTS?

09:40AM 19 A. CORRECT.

09:40AM 20 Q. AND THOSE ARE OFTEN CALLED LDT'S?

09:40AM 21 A. YES.

09:40AM 22 Q. AND LABORATORIES THAT YOU WERE FAMILIAR WITH, EVEN APART  
09:40AM 23 FROM THERANOS, RUN LDT'S IN THEIR LAB; IS THAT RIGHT?

09:41AM 24 A. MANY DO, YES.

09:41AM 25 Q. AND THERE ARE CERTAIN PROCEDURES IF A LAB IS GOING TO RUN

09:41AM 1 LDT'S?

09:41AM 2 A. CORRECT.

09:41AM 3 Q. AND ONE SUCH PROCEDURE IS THAT THE LAB HAS TO BE LICENSED

09:41AM 4 AS A HIGH COMPLEXITY LAB?

09:41AM 5 A. CORRECT.

09:41AM 6 Q. SO IF A LAB IS A MODERATE COMPLEXITY LAB, IT COULDN'T RUN

09:41AM 7 LDT'S; IS THAT RIGHT?

09:41AM 8 A. I'M NOT SURE ON THAT POINT.

09:41AM 9 Q. OKAY. BUT AT LEAST YOU KNOW THAT IF A LAB WANTS -- GO

09:41AM 10 AHEAD, I'M SORRY.

09:41AM 11 A. IF YOU RUN EVEN ONE LDT, I THINK YOU IMMEDIATELY BECOME A

09:41AM 12 HIGH COMPLEXITY LABORATORY.

09:41AM 13 Q. RIGHT. AND THEN THE REGULATIONS ALSO REQUIRE THAT THE

09:41AM 14 LABORATORY DIRECTOR OF A HIGH COMPLEX LAB HAVE CERTAIN

09:41AM 15 QUALIFICATIONS; IS THAT RIGHT?

09:41AM 16 A. YES, YES.

09:41AM 17 Q. AND YOU MET THOSE QUALIFICATIONS?

09:41AM 18 A. YES.

09:41AM 19 Q. AND WHEN YOU STARTED WORKING AT THERANOS, YOU WERE

09:41AM 20 ACTUALLY MOVING FROM PENNSYLVANIA TO CALIFORNIA; RIGHT?

09:41AM 21 A. CORRECT.

09:41AM 22 Q. AND SO YOU HAD TO OBTAIN LICENSURE IN CALIFORNIA AS WELL?

09:41AM 23 A. MEDICAL LICENSURE, CORRECT.

09:41AM 24 Q. BECAUSE YOU WERE NEW TO THE STATE OF CALIFORNIA?

09:41AM 25 A. CORRECT.

09:41AM 1 Q. OKAY. SO IN ADDITION TO THE NEED TO HAVE A LABORATORY  
09:42AM 2 DIRECTOR QUALIFIED TO RUN A HIGH COMPLEXITY LAB, IS IT THE CASE  
09:42AM 3 THAT THE LABORATORY DIRECTOR HAS TO BE QUALIFIED TO MANAGE AND  
09:42AM 4 DIRECT LABORATORY PERSONNEL WHO ARE ACTUALLY RUNNING THE HIGH  
09:42AM 5 COMPLEXITY TESTS?

09:42AM 6 A. THE LABORATORY DIRECTOR IS RESPONSIBLE FOR ENSURING THAT  
09:42AM 7 SUFFICIENTLY TRAINED PERSONNEL ARE WORKING IN THE LAB AND THAT  
09:42AM 8 THEIR TRAINING AND COMPETENCY IS DOCUMENTED.

09:42AM 9 Q. OKAY. AND THAT'S THE LABORATORY DIRECTOR'S JOB?

09:42AM 10 A. IT FALLS UNDER THE LABORATORY DIRECTOR, BUT THEY WILL  
09:42AM 11 DELEGATE THIS, PARTICULARLY IN A LARGE LAB, THEY WILL DELEGATE  
09:42AM 12 THIS TO SUPERVISORS.

09:42AM 13 Q. AND YOU CAN RELY ON GENERAL SUPERVISORS AND TECHNICAL  
09:43AM 14 SUPERVISORS TO PERFORM SOME OF THOSE TASKS?

09:43AM 15 A. IDEALLY, YES.

09:43AM 16 Q. RIGHT. SUCH AS TRAINING TASKS?

09:43AM 17 A. CORRECT.

09:43AM 18 Q. BUT ULTIMATELY THE LAB DIRECTOR HAS TO OVERSEE THAT  
09:43AM 19 PROCESS; IS THAT RIGHT?

09:43AM 20 A. WELL, UNDER THE LAW, A LABORATORY DIRECTOR IS RESPONSIBLE  
09:43AM 21 FOR ABSOLUTELY EVERYTHING.

09:43AM 22 Q. RIGHT.

09:43AM 23 A. BUT IN ANY EVENT.

09:43AM 24 Q. DR. ROSENDORFF, THE LABORATORY DIRECTOR IS ALSO  
09:43AM 25 RESPONSIBLE FOR MAKING SURE THAT THE TESTS PERFORMED BY THE

09:43AM 1 LABORATORY, ARE PERFORMED ACCURATELY AND CORRECTLY; IS THAT  
09:43AM 2 RIGHT?

09:43AM 3 A. I DON'T KNOW EXACTLY WHAT STATUTE YOU'RE REFERRING TO. IF  
09:43AM 4 YOU COULD POINT ME TO THE STATUTE.

09:43AM 5 Q. CERTAINLY. AND IF IT WOULD HELP TO REFRESH, I CAN HAND UP  
09:43AM 6 SOMETHING TO YOU.

09:43AM 7 MAY I APPROACH, YOUR HONOR?

09:43AM 8 THE COURT: YES.

09:43AM 9 MR. COOPERSMITH: (HANDING.)

09:44AM 10 Q. DR. ROSENDORFF, I'VE HANDED YOU SOME EXCERPTS AND JUST TO  
09:44AM 11 GO THROUGH THOSE. THEY'RE NUMBERED AT THE TOP. AND THE ONE  
09:44AM 12 THAT I WAS REFERRING TO IN THE LAST QUESTION WAS ON PAGE 3 OF  
09:44AM 13 THE DOCUMENT THAT I'VE HANDED YOU.

09:44AM 14 A. YES, YES.

09:44AM 15 Q. AND COULD YOU SEE THAT IS NUMBERED 493.1145?

09:44AM 16 A. YES.

09:44AM 17 Q. AND LOOKING AT THAT, DOES THAT REFRESH YOUR MEMORY THAT  
09:44AM 18 ONE OF THE LAB DIRECTOR'S RESPONSIBILITIES IS TO RECORD AND  
09:44AM 19 REPORT TEST RESULTS PROMPTLY, ACCURATELY, AND PROFICIENTLY, AND  
09:44AM 20 FOR ENSURING COMPLIANCE WITH APPLICABLE REGULATIONS?

09:44AM 21 A. THIS MEANS THAT THE REPORTING TESTS IS CONCORDANT WITH  
09:44AM 22 WHAT THE LABORATORY IS PUTTING OUT AS THE RESULT. THAT'S ALL  
09:44AM 23 THAT MEANS.

09:44AM 24 Q. OKAY. BUT IT ALSO -- AM I RIGHT, THAT ONE OF THE LAB  
09:45AM 25 DIRECTOR'S RESPONSIBILITIES IS TO, IN THE COURSE OF OVERSEEING

09:45AM 1 THE LAB, TO MAKE SURE THE TESTS THAT ARE BEING CONDUCTED ARE  
09:45AM 2 PERFORMED ACCURATELY?

09:45AM 3 A. SO, AS I SAID YESTERDAY, IF THE LABORATORY IS IN VIOLATION  
09:45AM 4 OF ANY CMS REG SUCH THAT IT RESULTS IN JEOPARDY AND CLOSURE OF  
09:45AM 5 THE LAB, THE LABORATORY DIRECTOR AND OWNER ARE HELD JOINTLY  
09:45AM 6 LIABLE.

09:45AM 7 Q. YES. BUT IN TERMS OF THE RESPONSIBILITY BEFORE A  
09:45AM 8 VIOLATION OCCURS, IF ONE DOES, THE LABORATORY DIRECTOR HAS  
09:45AM 9 TO -- AS ONE OF THE DUTIES, HAS TO ENSURE THAT THE LABORATORY  
09:45AM 10 IS TESTING IN AN ACCURATE MANNER?

09:45AM 11 A. DOESN'T THE INDICATED SANCTIONS APPROVE WHO IS ULTIMATELY  
09:45AM 12 RESPONSIBLE IN THAT REGARD?

09:45AM 13 Q. FROM -- YOU GET TO A LABORATORY'S LAB DIRECTOR,  
09:45AM 14 DR. ROSENDORFF, AND FROM DAY ONE THAT YOU ARE LAB DIRECTOR,  
09:46AM 15 BEFORE ANYTHING HAPPENS, YOU KNOW THAT GOING IN THAT ONE OF  
09:46AM 16 YOUR JOBS IS TO DO EVERYTHING THAT YOU CAN TO MAKE SURE THE  
09:46AM 17 TESTS ARE ACCURATE; IS THAT CORRECT?

09:46AM 18 A. AND I DID.

09:46AM 19 Q. OKAY. YOU CAN PUT THAT ASIDE, DR. ROSENDORFF.

09:46AM 20 I'D LIKE TO SWITCH TOPICS AND TALK ABOUT THE ASSAY  
09:46AM 21 DEVELOPMENT PROCESS AT THERANOS. OKAY?

09:46AM 22 A. SURE.

09:46AM 23 Q. SO YOU UNDERSTAND THAT PRIOR TO THE TIME THAT THERANOS  
09:46AM 24 STARTED TESTING PATIENT BLOOD BY COLLECTING SAMPLES AT  
09:46AM 25 WALGREENS, THERE HAD BEEN RESEARCH AND DEVELOPMENT WORK ON



09:46AM 1 THESE SMALL BLOOD SAMPLE ASSAYS?

09:46AM 2 A. I BELIEVE SO, YES.

09:46AM 3 Q. AND THERE WAS AN R&D DEPARTMENT AT THERANOS WHO WAS  
09:46AM 4 RESPONSIBLE FOR CONDUCTING THAT RESEARCH; IS THAT RIGHT?

09:46AM 5 A. YES.

09:46AM 6 Q. AND THE -- THAT HAD GONE ON FOR SOME TIME PRIOR TO EVEN  
09:47AM 7 YOUR ARRIVAL AT THERANOS AS I UNDERSTAND IT; RIGHT?

09:47AM 8 A. YES.

09:47AM 9 Q. AND THE RESEARCH AND DEVELOPMENT PROCESS WAS TO ACTUALLY  
09:47AM 10 DEVELOP THE NOVEL TECHNOLOGY THAT THERANOS WAS TRYING TO OFFER;  
09:47AM 11 IS THAT RIGHT?

09:47AM 12 A. YES, THERANOS CONSIDERED THE TECHNOLOGY NOVEL, YES.

09:47AM 13 Q. RIGHT. AND THE NOVELTY, AT LEAST ACCORDING TO THE  
09:47AM 14 COMPANY, WAS TO DEVELOP A LOT OF ASSAYS THAT COULD USE VERY  
09:47AM 15 SMALL BLOOD SAMPLES SUCH AS A CAPILLARY TUBE SAMPLE FROM A  
09:47AM 16 FINGER?

09:47AM 17 A. YES.

09:47AM 18 Q. OKAY. AND THAT AT THE TIME THAT THE -- YOU WORKED ON A  
09:47AM 19 VALIDATION OF ASSAYS FOR THE CLINICAL LAB, A LOT OF THAT WORK  
09:47AM 20 ON DEVELOPING ASSAYS HAD ALREADY OCCURRED IN THE RESEARCH AND  
09:47AM 21 DEVELOPMENT SECTION; RIGHT?

09:47AM 22 A. MY UNDERSTANDING WAS THAT IT WAS MORE IN LINE WITH  
09:48AM 23 PRE-VALIDATION.

09:48AM 24 I WAS INVOLVED IN THE -- THE PRE-VALIDATION IS R&D  
09:48AM 25 EXPERIMENTS AND WORK THAT OCCUR TO PROOF OF PRINCIPLE AND MAKE

09:48AM 1 SURE -- IT'S NOT VALIDATION WORK PER SE.

09:48AM 2 VALIDATION INVOLVES A PLAN THAT IS APPROVED BY A LAB

09:48AM 3 DIRECTOR, AND THEN YOU EXECUTE THE VALIDATION, ET CETERA.

09:48AM 4 Q. RIGHT.

09:48AM 5 SO THE RESEARCH AND DEVELOPMENT WORK THAT IS DONE IS NOT

09:48AM 6 THE SAME AS THE CLIA VALIDATION WORK THAT HAS TO BE DONE BEFORE

09:48AM 7 A LAB HAS TO TEST PATIENTS; CORRECT?

09:48AM 8 A. THE VALIDATION HAS TO FOLLOW THE PLAN, AND IT'S USUALLY

09:48AM 9 CONDUCTED BY R&D.

09:48AM 10 Q. RIGHT.

09:48AM 11 AND JUST SO MY QUESTION IS CLEAR, I'LL TRY TO ASK IT IN A

09:48AM 12 BETTER WAY. THERE'S -- ONE THING IS ASSAY DEVELOPMENT WORK

09:48AM 13 THAT THE R&D DEPARTMENT DOES BEFORE ANYONE TRIES TO VALIDATE IT

09:49AM 14 FOR THE CLIA LAB?

09:49AM 15 A. CORRECT, CORRECT.

09:49AM 16 Q. OKAY. BUT AT SOME POINT A LABORATORY COULD TAKE THAT WORK

09:49AM 17 AND THEN GO THROUGH THE STEPS NECESSARY TO VALIDATE IT FOR THE

09:49AM 18 CLIA LAB; CORRECT?

09:49AM 19 A. CORRECT.

09:49AM 20 Q. OKAY. AND BEFORE THAT HAPPENS, THE ASSAY CAN'T BE USED TO

09:49AM 21 TEST PATIENTS; CORRECT?

09:49AM 22 A. CORRECT.

09:49AM 23 Q. OKAY. BUT WHEN YOU STARTED WORKING ON THESE ASSAY

09:49AM 24 VALIDATIONS, OBVIOUSLY WITH THE RESEARCH AND DEVELOPMENT PEOPLE

09:49AM 25 AS WELL, THE COMPANY WASN'T STARTING FROM SCRATCH IN TERMS OF

09:49AM 1 DEVELOPING SMALL BLOOD SAMPLE ASSAYS?

09:49AM 2 A. I'M NOT VERY FAMILIAR WITH THE WORK THAT OCCURRED IN R&D  
09:49AM 3 PRIOR TO STARTING IN THE LABORATORY.

09:49AM 4 Q. OKAY. I MIGHT HAVE SOME THINGS THAT MIGHT HELP REFRESH  
09:49AM 5 YOUR RECOLLECTION.

09:49AM 6 BUT FOR NOW CAN WE LOOK AT EXHIBIT 9921, AND THAT IS IN, I  
09:49AM 7 BELIEVE, THE SECOND VOLUME OF YOUR BINDERS.

09:50AM 8 THE WITNESS: YOUR HONOR, MAY I ASK A PROCEDURAL  
09:50AM 9 QUESTION?

09:50AM 10 THE COURT: YES.

09:50AM 11 THE WITNESS: I'M WONDERING IN THE INTEREST OF TIME,  
09:50AM 12 WHETHER THE EXHIBIT CAN JUST BE SHOWN ON THE SCREEN RATHER THAN  
09:50AM 13 HUNTING FOR IT IN THE BINDERS, BUT I DON'T KNOW WHAT THE  
09:50AM 14 COURT'S PROCEDURE IS.

09:50AM 15 MR. COOPERSMITH: I THINK DR. ROSENDORFF MAKES AN  
09:50AM 16 EXCELLENT SUGGESTION, IT MIGHT SAVE US SOME TIME.

09:50AM 17 THE COURT: WELL, IF YOU HAVE THE ABILITY -- THANK  
09:50AM 18 YOU, DR. ROSENDORFF.

09:50AM 19 IF YOU HAVE THE ABILITY AND THE DESIRE TO SHOW THE EXHIBIT  
09:50AM 20 ONLY TO THE WITNESS AND THE LAWYERS PRIOR TO ITS ADMISSION, AND  
09:50AM 21 THEN MAKE WHATEVER MOTIONS YOU WOULD LIKE AS TO ITS  
09:50AM 22 ADMISSIBILITY, THAT WOULD BE FINE AND WE CAN SEE HOW IT GOES.

09:50AM 23 ANY OBJECTION TO THAT, MR. BOSTIC?

09:50AM 24 MR. BOSTIC: NO, YOUR HONOR.

09:51AM 25 MR. COOPERSMITH: I UNDERSTAND THAT MS. ROBINSON HAS

09:51AM 1 THE ABILITY TO DISPLAY IT TO JUST THE COURT AND COUNSEL AND THE  
09:51AM 2 WITNESS AND NOT TO THE JURY UNTIL IT HAS BEEN --

09:51AM 3 THE COURT: THAT'S MY UNDERSTANDING. AND I HAVE  
09:51AM 4 CONTINUED HIGH CONFIDENCE IN OUR ELECTRICAL AV SYSTEM AS WE GO  
09:51AM 5 FORWARD.

09:51AM 6 (LAUGHTER.)

09:51AM 7 THE CLERK: WE MIGHT WANT TO TURN OFF THAT MONITOR  
09:51AM 8 AT THAT DESK WHERE NO ONE IS SITTING IN FRONT OF YOU HAVE AT  
09:51AM 9 DEFENSE TABLE.

09:52AM 10 (DISCUSSION OFF THE RECORD.)

09:52AM 11 THE COURT: AS LONG AS THE PRECAUTIONS HAVE BEEN  
09:52AM 12 TAKEN THAT ALL OF THE MONITORS THAT ARE FACING THE PUBLIC ARE  
09:52AM 13 NOT ADMISSIBLE PRIOR TO THE INTRODUCTION OF EVIDENCE. AND  
09:52AM 14 WE'VE HAD THOSE COME UP DURING TRIAL. AND IF THOSE PRECAUTIONS  
09:52AM 15 ARE TAKEN, THEN WE CAN FOLLOW THIS PROTOCOL.

09:52AM 16 MR. COOPERSMITH: I THINK IT WOULD BE POSSIBLE TO  
09:52AM 17 TURN OFF THE MONITORS.

09:52AM 18 THE COURT: I THINK THAT'S BEEN DONE. I THINK  
09:52AM 19 THAT'S BEEN ACCOMPLISHED.

09:52AM 20 MR. COOPERSMITHD: GREAT.

09:52AM 21 THE COURT: SO 9921?

09:52AM 22 MR. COOPERSMITH: YES, YOUR HONOR. THANK YOU.

09:52AM 23 Q. AND, DR. ROSENDORFF, IF FOR ANY REASON YOU NEED TO SEE THE  
09:52AM 24 PAPER COPY, THEN OBVIOUSLY JUST LET ME KNOW AND WE CAN DO THAT.

09:52AM 25 OKAY?

09:52AM 1 A. THANK YOU.

09:52AM 2 Q. OKAY. SO LOOKING AT EXHIBIT 9921, WHICH YOU SEE ON YOUR

09:52AM 3 SCREEN, YOU SEE THAT THIS IS A THERANOS DOCUMENT, AND IT'S A

09:52AM 4 MASTER VALIDATION PLAN FOR ELISA ASSAYS ON THERANOS DEVICES.

09:52AM 5 DO YOU SEE THAT?

09:52AM 6 A. YES.

09:52AM 7 Q. AND DO YOU SEE THAT THIS WAS SIGNED BY SEVERAL

09:52AM 8 INDIVIDUALS?

09:52AM 9 A. YES.

09:52AM 10 Q. AND ONE OF THEM IS SUREKHA GANGAKHEDKAR.

09:53AM 11 DO YOU SEE THAT?

09:53AM 12 A. I THINK YOU MANGLED HER LAST NAME.

09:53AM 13 Q. I'M SURE I DID. DO YOU HAVE A BETTER PRONUNCIATION?

09:53AM 14 A. I DO NOT, NO.

09:53AM 15 Q. OKAY. WELL, WE'LL CALL HER SUREKHA FOR THE MOMENT.

09:53AM 16 A. OKAY. OKAY.

09:53AM 17 Q. AND YOU'RE FAMILIAR WITH THAT PERSON; RIGHT?

09:53AM 18 A. YES, I AM.

09:53AM 19 Q. AND SHE WAS SOMEONE WHO WORKED IN THE RESEARCH AND

09:53AM 20 DEVELOPMENT LAB AT THERANOS?

09:53AM 21 A. YES.

09:53AM 22 Q. AND SHE WORKED ON ELISA ASSAYS IN PARTICULAR?

09:53AM 23 A. YES.

09:53AM 24 Q. AND IS ANOTHER WORD FOR ELISA ASSAYS, IMMUNOASSAYS?

09:53AM 25 A. YES.

09:53AM 1 Q. AND THAT'S THE TYPE ASSAY THAT THE EDISON 3 SERIES COULD  
09:53AM 2 RUN?

09:53AM 3 A. YES.

09:53AM 4 Q. AND YOU RECOGNIZE HER ON THE DOCUMENT?

09:53AM 5 A. YES, I SEE HER NAME.

09:53AM 6 Q. AND THIS IS A PROCEDURE THAT WAS ACTUALLY PRE-DATING YOUR  
09:53AM 7 TIME AT THERANOS ON A MASTER VALIDATION PLAN; IS THAT CORRECT?

09:53AM 8 A. IT APPEARS TO BE.

09:53AM 9 MR. COOPERSMITH: YES. YOUR HONOR, WE OFFER  
09:54AM 10 EXHIBIT 9921.

09:54AM 11 MR. BOSTIC: YOUR HONOR, AUTHENTICATION.

09:54AM 12 MR. COOPERSMITH: YOUR HONOR, I THINK AUTHENTICATION  
09:54AM 13 WOULD BE ACCOMPLISHED BY ATTRIBUTES OF THE DOCUMENT. HE  
09:54AM 14 RECOGNIZED SUREKHA'S NAME, AND SHE SIGNED THE DOCUMENT.

09:54AM 15 IT ACTUALLY HAS A CMS BATES NUMBER INDICATING IT CAME FROM  
09:54AM 16 CMS.

09:54AM 17 I DON'T THINK THERE'S AN AUTHENTICATION DOCUMENT -- AN  
09:54AM 18 AUTHENTICATION ISSUE BASED ON THE FEATURES OF THE DOCUMENT,  
09:54AM 19 WHICH IS ONE OF THE WAYS THAT THE DOCUMENT CAN BE  
09:54AM 20 AUTHENTICATED.

09:54AM 21 THE COURT: CAN YOU JUST ASK A COUPLE OF MORE  
09:54AM 22 FOUNDATIONAL QUESTIONS, PLEASE.

09:54AM 23 MR. COOPERSMITH: YES, YOUR HONOR.

09:54AM 24 Q. DR. ROSENDORFF, YOU ALSO SEE ARNOLD GELB, M.D., ON THE  
09:54AM 25 DOCUMENT?

09:54AM 1 A. YES, I DO.

09:54AM 2 Q. AND THAT WAS THE PERSON WHO WAS THE LAB DIRECTOR PRIOR TO

09:54AM 3 YOUR ARRIVAL?

09:54AM 4 A. NO. THE LABORATORY DIRECTOR OF RECORD WAS SPENCER HIRAKI.

09:55AM 5 Q. RIGHT. BUT YOU KNOW WHO DR. GELB WAS; RIGHT?

09:55AM 6 A. I BELIEVE HE WAS THE CLIA LABORATORY DIRECTOR BEFORE

09:55AM 7 DR. HIRAKI WENT ON TO THE LICENSE.

09:55AM 8 Q. OKAY. BUT YOU RECOGNIZE HIS NAME ON THE DOCUMENT?

09:55AM 9 A. YES, I RECOGNIZE HIS NAME.

09:55AM 10 Q. AND DR. GELB, AT THE TIME HE WAS LABORATORY DIRECTOR

09:55AM 11 BEFORE DR. HIRAKI, WOULD HAVE BEEN IN A POSITION TO SIGN AND

09:55AM 12 APPROVE SOP'S JUST LIKE ANY OTHER LAB DIRECTOR, AS FAR AS YOU

09:55AM 13 KNOW; RIGHT?

09:55AM 14 A. I'M NOT SURE WHAT YOU'RE ASKING, I'M SORRY.

09:55AM 15 Q. OKAY. I'LL ASK A DIFFERENT QUESTION.

09:55AM 16 SO YOU SEE THE DOCUMENT IS A STANDARD OPERATING PROCEDURE

09:55AM 17 THAT IT SAYS AT THE TOP?

09:55AM 18 A. YES.

09:55AM 19 Q. AND IT HAS A THERANOS LOGO AS IT EXISTED AT THE TIME ON

09:55AM 20 IT.

09:55AM 21 DO YOU SEE THAT?

09:55AM 22 A. YES. I WASN'T THERE SO I DON'T KNOW WHAT THE LOGO WAS.

09:55AM 23 Q. OKAY. BUT DO YOU SEE THE NAME THERANOS AND IT'S A LOGO;

09:55AM 24 RIGHT?

09:55AM 25 A. YES.

09:55AM 1 Q. OKAY. AND THIS FORM, WHERE YOU HAVE A BOX AT THE TOP THAT  
09:55AM 2 INDICATES WHAT THE DOCUMENT IS, AND THEN IT HAS SPACES FOR THE  
09:56AM 3 AUTHOR, AND THE REVIEWER, AND THE APPROVER, THAT'S A FORM THAT  
09:56AM 4 YOU HAVE SEEN BEFORE ON LOTS OF OTHER STANDARD OPERATING  
09:56AM 5 PROCEDURES AT THERANOS; CORRECT?

09:56AM 6 A. I'M A LITTLE CONFUSED WITH THIS DOCUMENT BECAUSE AT THE  
09:56AM 7 TOP IT SAYS STANDARD OPERATING PROCEDURE AND THEN TWO LINES  
09:56AM 8 DOWN IT SAYS MASTER VALIDATION PLAN.

09:56AM 9 SO A VALIDATION PLAN IS NOT AN OPERATING PROCEDURE.

09:56AM 10 AN OPERATING PROCEDURE IS SOMETHING THAT THE LAB DOES ONCE  
09:56AM 11 YOU GO INTO PRODUCTION.

09:56AM 12 Q. YES, DR. ROSENDORFF.

09:56AM 13 BUT MY QUESTION IS DIFFERENT. I'M SIMPLY ASKING WHETHER  
09:56AM 14 THE FORM OF THE DOCUMENT, WHERE IT SAYS STANDARD OPERATING  
09:56AM 15 PROCEDURE AT THE TOP, AND IT HAS A SPACE FOR AUTHORS, AND  
09:56AM 16 REVIEWERS, AND APPROVERS JUST LIKE THIS DOCUMENT DOES, THAT'S A  
09:56AM 17 FORM THAT YOU'VE SEEN AT THERANOS MANY TIMES IN ALL SORTS OF  
09:56AM 18 DIFFERENT SOP'S AND VALIDATION REPORTS; CORRECT?

09:56AM 19 A. YES.

09:56AM 20 Q. AND THIS DOCUMENT LOOKS JUST LIKE THAT DOCUMENT IN TERMS  
09:57AM 21 OF THE FORM OF THE DOCUMENT; CORRECT?

09:57AM 22 A. YES, I BELIEVE SO.

09:57AM 23 Q. OKAY. AND IF YOU JUST, WITHOUT READING IT OUT LOUD TO THE  
09:57AM 24 JURY, YOU SEE THAT IN THE BODY OF THE DOCUMENT, EVEN IF YOU  
09:57AM 25 TURN TO THE SECOND PAGE IN THE TABLE OF CONTENTS, IT HAS, LIKE,



09:57AM 1 VARIOUS SECTIONS REGARDING DIFFERENT ASPECTS OF VALIDATION THAT  
09:57AM 2 HAVE TO OCCUR.

09:57AM 3 DO YOU SEE THAT?

09:57AM 4 A. YES.

09:57AM 5 Q. AND, FOR EXAMPLE, ACCURACY AND PRECISION AND SENSITIVITY  
09:57AM 6 AND SO FORTH.

09:57AM 7 DO YOU SEE THAT?

09:57AM 8 A. YES.

09:57AM 9 MR. COOPERSMITH: YOUR HONOR, WE OFFER EXHIBIT 9921.

09:57AM 10 THE COURT: I'LL ADMIT IT, AND IT MAY BE PUBLISHED.

09:57AM 11 (DEFENDANT'S EXHIBIT 9921 WAS RECEIVED IN EVIDENCE.)

09:57AM 12 BY MR. COOPERSMITH:

09:57AM 13 Q. DR. ROSENDORFF, DO YOU SEE THE FIRST PAGE? AND THIS IS,  
09:57AM 14 AGAIN, SOMETHING THAT EXISTED BEFORE YOUR TIME AT THERANOS;  
09:57AM 15 CORRECT?

09:57AM 16 A. YES.

09:57AM 17 Q. AND IT'S AS YOU SAID, THE MASTER VALIDATION PLAN FOR ELISA  
09:58AM 18 ASSAYS ON THERANOS DEVICES?

09:58AM 19 A. YES.

09:58AM 20 Q. AND IF YOU TURN TO THE SECOND PAGE THAT HAS THE TABLE OF  
09:58AM 21 CONTENT, YOU SEE THERE'S A LIST OF DIFFERENT SECTIONS?

09:58AM 22 A. YES.

09:58AM 23 Q. AND, FOR EXAMPLE, JUST TO DISCUSS A FEW, SECTION 12 IS  
09:58AM 24 QUALITY CONTROL?

09:58AM 25 A. YES.

09:58AM 1 Q. AND SECTION 13 IS PRECISION?

09:58AM 2 A. YES.

09:58AM 3 Q. AND SECTION 14 IS ANALYTICAL SENSITIVITY?

09:58AM 4 A. YES.

09:58AM 5 Q. OKAY. AND 16 IS ACCURACY/TRUENESS/AND COMPARABILITY?

09:58AM 6 A. YES.

09:58AM 7 Q. AND TO PICK OUT ONE MORE. SECTION 20 IS STABILITY?

09:58AM 8 A. YES.

09:58AM 9 Q. SO THESE THINGS ARE, AS YOU UNDERSTAND IT AS LAB DIRECTOR,

09:58AM 10 ARE THINGS THAT ARE REQUIRED TO DO WHEN YOU VALIDATE AN ASSAY

09:58AM 11 IN A CLIA LAB; CORRECT?

09:58AM 12 A. THIS IS A LARGER SET OF ITEMS THAN WOULD BE REQUIRED UNDER

09:59AM 13 CLIA.

09:59AM 14 Q. OKAY. SO THERE'S MORE SECTIONS HERE THAN WHAT IS ACTUALLY

09:59AM 15 REQUIRED UNDER CLIA; IS THAT RIGHT?

09:59AM 16 A. YES.

09:59AM 17 Q. OKAY. AND THAT'S WHAT'S THE TABLE OF CONTENTS.

09:59AM 18 IF YOU GO TO THE PAGE 5 OF THE DOCUMENT. AND I'M

09:59AM 19 REFERRING TO THE PAGE NUMBERS IN THE LITTLE BOX AT THE BOTTOM.

09:59AM 20 YOU CAN SEE THEM ON YOUR SCREEN. THIS IS PAGE 5 OF 17.

09:59AM 21 DO YOU SEE THAT?

09:59AM 22 A. YES, SIR.

09:59AM 23 Q. AND IF YOU GO TO SECTION 4, "RESPONSIBILITIES."

09:59AM 24 DO YOU SEE SECTION 4.1, "IT IS THE RESPONSIBILITY OF THE

09:59AM 25 LABORATORY DIRECTOR TO ENSURE THAT THE ELISA ASSAYS INDICATED

09:59AM 1 IN ATTACHMENT," AND THERE'S A NUMBER, "ARE QUALIFIED AND  
09:59AM 2 VALIDATED ON THE THERANOS SYSTEMS IN ACCORDANCE WITH THE  
09:59AM 3 QUALIFICATION PLAN SPECIFIED IN THIS DOCUMENT."

09:59AM 4 DO YOU SEE THAT?

09:59AM 5 A. YES, I DO.

09:59AM 6 Q. AND THAT IS, IN FACT, THE DUTY OF THE LAB DIRECTOR TO SO  
09:59AM 7 ENSURE; IS THAT CORRECT?

09:59AM 8 A. YES.

09:59AM 9 Q. IF YOU GO TO PAGE 7 OF 17 OF THE DOCUMENT.

10:00AM 10 DO YOU SEE THERE'S A SECTION 12 ON QUALITY CONTROL?

10:00AM 11 A. YES.

10:00AM 12 Q. AND IT SAYS, SECTION 12.1, "TWO TO FOUR LEVEL QUALITY  
10:00AM 13 CONTROL SAMPLES (E.G. LLOQ, QC LOW, QC MEDIAN AND QC HIGH) AS  
10:00AM 14 APPROPRIATE TO THE ASSAY WILL BE ANALYZED AND EACH RUN ON EACH  
10:00AM 15 INSTRUMENT FOR EACH EXPERIMENT."

10:00AM 16 DO YOU SEE THAT?

10:00AM 17 A. YES.

10:00AM 18 Q. AND IF YOU GO TO SECTION -- I'M SORRY, PAGE 14 OF 17.

10:00AM 19 DO YOU SEE THERE'S SECTION 22 THERE?

10:00AM 20 A. YES.

10:00AM 21 Q. AND THAT'S TITLED ALTERNATIVE ASSESSMENT PROCEDURE?

10:00AM 22 A. YES.

10:00AM 23 Q. AND THEN 22.1 SAYS, "BECAUSE OF THE UNIQUE FEATURES OF THE  
10:00AM 24 THERANOS SYSTEMS, TRADITIONAL PROFICIENCY TESTING PROGRAMS ARE  
10:00AM 25 NOT EXPECTED TO BE APPLICABLE."

10:00AM 1 DO YOU SEE THAT?

10:00AM 2 A. YES.

10:00AM 3 Q. AND THEN SECTION 22.2 READS, "INSTEAD, AN ALTERNATIVE

10:01AM 4 ASSESSMENT PROGRAM (AAP) WILL BE DEVELOPED AS DESCRIBED IN CLSI

10:01AM 5 GUIDELINES GP 29-A 2."

10:01AM 6 DO YOU SEE THAT?

10:01AM 7 A. YES.

10:01AM 8 Q. AND CLSI, CAN YOU TELL US WHAT THAT IS?

10:01AM 9 A. CLINICAL LABORATORY STANDARDS INSTITUTE.

10:01AM 10 Q. AND THAT'S A GROUP, I THINK THEY'RE BASED IN PENNSYLVANIA?

10:01AM 11 A. CORRECT.

10:01AM 12 Q. WHO ISSUE GUIDELINES FOR CLINICAL LABS?

10:01AM 13 A. CORRECT.

10:01AM 14 Q. AND THEIR VIEWS ARE OFTEN CONSIDERED BY LABORATORIES?

10:01AM 15 A. YES.

10:01AM 16 Q. AND USED TO IMPLEMENT PROCEDURES BECAUSE THEY'RE

10:01AM 17 CONSIDERED TO BE AUTHORITATIVE?

10:01AM 18 A. YES.

10:01AM 19 Q. OKAY. AND AT TIMES YOU WOULD REFER TO CLSI MATERIALS TO

10:01AM 20 DO YOUR JOB AS LAB DIRECTOR?

10:01AM 21 A. YES.

10:01AM 22 Q. OKAY. AND, IN FACT, THERE ARE CLSI MATERIALS THAT

10:01AM 23 SPECIFICALLY RELATE TO ALTERNATIVE ASSESSMENT PROCEDURES; IS

10:01AM 24 THAT RIGHT?

10:01AM 25 A. I -- THAT'S MY UNDERSTANDING FROM READING THIS GP 29, I

10:02AM 1 GUESS, THAT'S THE ONE THAT HANDLES IT.

10:02AM 2 Q. OKAY. WE'LL LOOK AT A THING OR TWO IN A FEW MINUTES THAT  
10:02AM 3 DEAL WITH THAT.

10:02AM 4 A. OKAY.

10:02AM 5 Q. AND THEN LET'S JUST GO -- I THINK THAT'S ALL ON THAT  
10:02AM 6 DOCUMENT. YOU CAN PUT THAT ASIDE.

10:02AM 7 OKAY. WE WERE TALKING A FEW MINUTES AGO ABOUT THE WORK  
10:02AM 8 THAT GOES INTO DEVELOPING AN ASSAY ON THE RESEARCH SIDE BEFORE  
10:02AM 9 IT GETS TO THE POINT OF TRYING TO BE -- TRYING TO VALIDATE IT  
10:02AM 10 FOR THE CLIA LAB.

10:02AM 11 DO YOU REMEMBER THAT?

10:02AM 12 A. YES.

10:02AM 13 Q. OKAY. AND I'D LIKE TO SHOW YOU AN EXHIBIT, WHICH IS 1031,  
10:02AM 14 AND WE CAN JUST SHOW IT ON THE SCREENS.

10:03AM 15 OKAY. DO YOU SEE EXHIBIT 1031, DR. ROSENDORFF?

10:03AM 16 A. YES.

10:03AM 17 Q. AND THIS IS AN EMAIL FROM THE SAME PERSON WHOSE NAME I  
10:03AM 18 WON'T EVEN ATTEMPT THIS TIME, SUREKHA?

10:03AM 19 A. GANGAKHEDKAR. I THINK THAT'S HOW YOU PRONOUNCE IT.

10:03AM 20 Q. OKAY. THANK YOU, DR. ROSENDORFF. I APPRECIATE IT.

10:03AM 21 A. UH-HUH.

10:03AM 22 Q. IT'S AN EMAIL FROM HER TO A GROUP OF PEOPLE, INCLUDING  
10:03AM 23 DR. DANIEL YOUNG, YOURSELF, ELIZABETH HOLMES, AND IT HAS A COPY  
10:03AM 24 TO SHARADA SIVARAMAN.

10:03AM 25 DO YOU SEE THAT?

10:03AM 1 A. YES.

10:03AM 2 Q. AND DR. SIVARAMAN WAS ALSO A SCIENTIST WHO WORKED IN THE

10:03AM 3 RESEARCH AND DEVELOPMENT SECTION AT THERANOS?

10:03AM 4 A. YES.

10:03AM 5 Q. OKAY. AND SAME WITH DR. YOUNG; RIGHT?

10:03AM 6 A. HE WAS THE VP OF THERANOS SYSTEMS AND THAT WAS HIS TITLE,

10:03AM 7 AND HE HAD A HAND IN EVERYTHING REALLY.

10:03AM 8 Q. I'M SORRY, I DIDN'T HEAR YOU.

10:03AM 9 A. HE HAD A HAND IN EVERYTHING.

10:03AM 10 Q. RIGHT. DR. YOUNG HAD A HAND IN EVERYTHING?

10:03AM 11 A. YEAH.

10:03AM 12 Q. AND TO FIX PROBLEMS IF THEY AROSE AND DEAL WITH ASSAYS IN

10:04AM 13 GENERAL?

10:04AM 14 A. YES.

10:04AM 15 Q. AND MR. BALWANI RELIED ON DR. YOUNG FOR THOSE PURPOSES; IS

10:04AM 16 THAT RIGHT?

10:04AM 17 MR. BOSTIC: OBJECTION. IT CALLS FOR SPECULATION

10:04AM 18 AND LACKS FOUNDATION.

10:04AM 19 THE COURT: DO YOU WANT TO LAY A FOUNDATION?

10:04AM 20 MR. COOPERSMITH: SURE, YOUR HONOR.

10:04AM 21 Q. YOU HAD AN OPPORTUNITY WHILE YOU WERE AT THERANOS TO

10:04AM 22 OBSERVE DR. YOUNG PERFORMING HIS JOB; IS THAT RIGHT?

10:04AM 23 A. YES.

10:04AM 24 Q. AND YOU HAD AN OPPORTUNITY TO OBSERVE MR. BALWANI

10:04AM 25 INTERACTING WITH DR. YOUNG?

10:04AM 1

A. YES.

10:04AM 2

Q. AND YOU UNDERSTOOD FROM THAT OBSERVATION THAT MR. BALWANI

10:04AM 3

WAS RELYING ON DR. YOUNG FOR A LOT OF ISSUES THAT CAME UP WITH

10:04AM 4

ASSAYS AT THERANOS?

10:04AM 5

MR. BOSTIC: SPECULATION. ALSO VAGUE.

10:04AM 6

THE COURT: MAYBE YOU SHOULD DEVELOP THAT A LITTLE

10:04AM 7

MORE.

10:04AM 8

BY MR. COOPERSMITH:

10:04AM 9

Q. WELL, DO YOU HAVE AN UNDERSTANDING OF THAT,

10:04AM 10

DR. ROSENDORFF?

10:04AM 11

A. THAT MR. BALWANI RELIED ON DR. YOUNG?

10:04AM 12

Q. YES.

10:04AM 13

A. TO --

10:04AM 14

MR. BOSTIC: SAME OBJECTION, YOUR HONOR. CALLS FOR

10:05AM 15

SPECULATION.

10:05AM 16

THE COURT: CAN YOU ASK FOUNDATIONAL QUESTIONS FOR

10:05AM 17

THAT.

10:05AM 18

MR. COOPERSMITH: YES, YOUR HONOR, I'LL CERTAINLY

10:05AM 19

TRY.

10:05AM 20

Q. DR. ROSENDORFF, WERE YOU PRIVY TO CONVERSATIONS BETWEEN

10:05AM 21

MR. BALWANI AND DR. YOUNG ABOUT ASSAYS AND ISSUES THAT AROSE

10:05AM 22

OVER TIME?

10:05AM 23

A. NO, I WAS NOT PRIVY TO IN-PERSON CONVERSATIONS BETWEEN THE

10:05AM 24

TWO OF THEM.

10:05AM 25

Q. WERE YOU PRIVY TO EMAILS THAT WERE CIRCULATED BETWEEN THE

10:05AM 1 TWO OF THEM?

10:05AM 2 A. YES, I WAS.

10:05AM 3 Q. AND FROM THE EMAILS, DO YOU HAVE AN UNDERSTANDING OF THE

10:05AM 4 RELIANCE -- WHETHER MR. BALWANI RELIED ON DR. YOUNG FOR ISSUES

10:05AM 5 THAT AROSE IN CONNECTION WITH ASSAYS?

10:05AM 6 A. I GUESS SO. I MEAN, I'M NOT SURE WHO DANIEL REPORTED TO.

10:05AM 7 I MEAN, MY SENSE WAS THAT SUNNY WAS HOLDING HIM

10:05AM 8 ACCOUNTABLE FOR THE TECHNICAL PERFORMANCE OF THE ASSAYS, YEAH.

10:06AM 9 Q. OKAY.

10:06AM 10 A. YEAH. I DON'T KNOW, I'M JUST TRYING TO ANSWER YOUR

10:06AM 11 QUESTION AS BEST AS I CAN.

10:06AM 12 Q. AND THAT'S ALL I CAN ASK, DR. ROSENDORFF. SO THANK YOU.

10:06AM 13 A. YEAH.

10:06AM 14 Q. ACTUALLY, LOOKING AT EXHIBIT 1031 YOU SEE, AGAIN, THIS IS

10:06AM 15 AN EMAIL AS I DESCRIBED, AND IT'S DATED AUGUST 24TH, 2013.

10:06AM 16 DO YOU SEE THAT?

10:06AM 17 A. YES, YES.

10:06AM 18 Q. AND THIS WAS PRIOR TO THE LAUNCH OF THERANOS BLOOD TESTING

10:06AM 19 SERVICES AT WALGREENS; IS THAT CORRECT?

10:06AM 20 A. YES.

10:06AM 21 Q. AND DO YOU SEE THAT THE DOCUMENT REFERS TO CERTAIN

10:06AM 22 DEVELOPMENT REPORTS?

10:06AM 23 A. YES.

10:06AM 24 MR. COOPERSMITH: YOUR HONOR, WE OFFER EXHIBIT 1031.

10:06AM 25 MR. BOSTIC: NO OBJECTION.



10:06AM 1 THE COURT: IT'S ADMITTED. IT MAY BE PUBLISHED.

10:06AM 2 (GOVERNMENT'S EXHIBIT 1031 WAS RECEIVED IN EVIDENCE.)

10:06AM 3 BY MR. COOPERSMITH:

10:06AM 4 Q. OKAY. SO LOOKING AT --

10:07AM 5 THE COURT: WE NEED TO TURN THE JUROR'S MONITORS ON.

10:07AM 6 THE CLERK: I TURNED THEM ON.

10:07AM 7 THE COURT: OH. THERE WE GO. THANK YOU.

10:07AM 8 MR. COOPERSMITH: THANK YOU, YOUR HONOR.

10:07AM 9 Q. SO YOU SEE THAT THIS IS AN EMAIL AND THERE'S ACTUALLY SOME  
10:07AM 10 ATTACHMENTS LISTED AT THE TOP?

10:07AM 11 A. YES.

10:07AM 12 Q. AND ONE OF THEM IS TSH MASTER VALIDATION PLAN FOR ELISA  
10:07AM 13 ASSAYS.

10:07AM 14 DO YOU SEE THAT?

10:07AM 15 A. YES.

10:07AM 16 Q. AND THEN THERE ARE TWO OTHER ATTACHMENTS.

10:07AM 17 DO YOU SEE THAT?

10:07AM 18 A. YES.

10:07AM 19 Q. AND ONE OF THEM IS THERANOS TSH ASSAY DEVELOPMENT REPORT?

10:07AM 20 A. YES.

10:07AM 21 Q. AND SO AN ASSAY DEVELOPMENT REPORT IS SOMETHING DIFFERENT  
10:07AM 22 FROM A CLIA ASSAY REPORT?

10:07AM 23 A. YES.

10:07AM 24 Q. AN ASSAY DEVELOPMENT REPORT IS SOMETHING THAT THE RESEARCH  
10:07AM 25 AND DEVELOPMENT SECTION AT THERANOS PUT OUT ON THEIR OWN; IS

10:07AM 1 THAT RIGHT?

10:07AM 2 A. CORRECT.

10:07AM 3 Q. OKAY. AND IT WOULD NOT BE SUFFICIENT TO ACTUALLY RUN THE  
10:07AM 4 ASSAY IN THE CLIA LAB; RIGHT?

10:07AM 5 A. IT WOULD BE NECESSARY, BUT NOT SUFFICIENT.

10:07AM 6 Q. OKAY. AND SO IT JUST WORKED THAT THE CLIA LAB COULD LATER  
10:07AM 7 BUILD ON TO TRY TO APPROVE AN ASSAY OR VALIDATE AN ASSAY IN THE  
10:07AM 8 CLIA LAB?

10:07AM 9 A. YES.

10:07AM 10 Q. OKAY. AND THEN THE EMAIL SAYS, "HI DANIEL & ADAM,  
10:08AM 11 "ATTACHED ARE THE DEVELOPMENT REPORTS FOR TSH AND TPSA AND  
10:08AM 12 THE VALIDATION PLAN FOR TSH."

10:08AM 13 DO YOU SEE THAT?

10:08AM 14 A. I CAN EXPLAIN A LITTLE BIT WHAT THE DIFFERENCE IS BETWEEN  
10:08AM 15 THE DEVELOPMENT REPORTS AND A PLAN IF THAT'S HELPFUL.

10:08AM 16 Q. PLEASE DO.

10:08AM 17 A. WELL, SO BY THE TIME YOU GET TO DOING THE ACTUAL  
10:08AM 18 VALIDATION, THE METHOD HAS TO BE LOCKED DOWN AND RECEIVED IN  
10:08AM 19 GRANULAR DETAIL EXACTLY WHAT INSTRUMENT YOU'RE USING, WHAT  
10:08AM 20 REAGENTS, SOFTWARE, WHO IS PERFORMING IT, ET CETERA.

10:08AM 21 SO YOU CAN'T CHANGE THE ASSAY AFTER THE VALIDATION IS  
10:08AM 22 SIGNED WITHOUT A NEW VALIDATION.

10:08AM 23 Q. RIGHT.

10:08AM 24 A. THAT JUST HAPPENED CONSTANTLY AT THERANOS THAT THE ASSAY  
10:08AM 25 WAS CHANGING ALL OF THE TIME AND THE QA DEPARTMENT HAD TO TRY

10:08AM 1 TO KEEP AN EYE ON IT TO FIND OUT IF THINGS WERE BEING  
10:08AM 2 REVALIDATED OR NOT. IT WAS IMPOSSIBLE FOR ME TO JUST KEEP  
10:09AM 3 TRACK OF WHAT THE ACTUAL ASSAY WAS.

10:09AM 4 MR. COOPERSMITH: OKAY. YOUR HONOR, I'M GOING TO  
10:09AM 5 MOVE TO STRIKE THAT ANSWER AS NONRESPONSIVE TO THE QUESTION.

10:09AM 6 THE COURT: WELL, YOU ASKED HIM TO EXPLAIN.

10:09AM 7 MR. COOPERSMITH: WELL, I THINK HE EXPLAINED  
10:09AM 8 SOMETHING DIFFERENT.

10:09AM 9 MR. BOSTIC: YOUR HONOR, THAT WAS RESPONSIVE TO A  
10:09AM 10 QUITE OPEN ENDED QUESTION FROM THE DEFENSE COUNSEL.

10:09AM 11 (PAUSE IN PROCEEDINGS.)

10:09AM 12 THE COURT: I WILL STRIKE THE LAST SENTENCE ABOUT  
10:09AM 13 "IMPOSSIBLE FOR ME TO JUST KEEP TRACK OF WHAT THE ASSAY WAS,"  
10:09AM 14 THAT'S STRICKEN.

10:09AM 15 MR. COOPERSMITH: THANK YOU, YOUR HONOR.

10:09AM 16 Q. DR. ROSENDORFF, GOING BACK TO THE EMAIL THAT WE HAVE ON  
10:09AM 17 THE SCREEN, THESE WERE ASSAY DEVELOPMENT REPORTS THAT WERE  
10:09AM 18 BEING SENT TO YOU AND DR. YOUNG IN PREPARATION FOR DOING THE  
10:10AM 19 CLIA VALIDATION WORK; CORRECT?

10:10AM 20 A. I DON'T KNOW EXACTLY WHAT THE INTENT IS OF THIS EMAIL.

10:10AM 21 Q. OKAY. GOING BACK TO SOMETHING YOU SAID BEFORE. YOU SAID  
10:10AM 22 THAT BY THE TIME YOU DO THE CLIA VALIDATION, THE ASSAY AND WHAT  
10:10AM 23 IS GOING TO GO INTO RUNNING THAT SIEMENS ADVIA HAVE TO BE  
10:10AM 24 LOCKED DOWN.

10:10AM 25 I THINK THOSE WERE YOUR WORDS?

10:10AM 1

A. YES.

10:10AM 2

Q. ALL RIGHT. BUT ALL OF THAT HAS TO BE DONE IN THE RESEARCH AND DEVELOPMENT SECTION BEFORE THE ASSAY GETS TO THE POINT OF CLIA VALIDATION?

10:10AM 3

10:10AM 4

A. CORRECT.

10:10AM 5

10:10AM 6

Q. OKAY. AND THAT WORK, YOU UNDERSTAND, WAS BEING DONE BY SCIENTISTS SUCH AS SUREKHA GANGAKHEDKAR?

10:10AM 7

10:10AM 8

I'M TAKING A RISK WITH HER NAME AGAIN.

10:10AM 9

BUT THAT'S THE WORK THAT HAS TO BE DONE WITH SCIENTISTS LIKE THAT; RIGHT?

10:10AM 10

10:10AM 11

A. YES.

10:10AM 12

Q. IF YOU TURN TO THE -- WELL, BEFORE WE GET TO THAT, LET'S JUST GO TO THE SECOND PARAGRAPH BECAUSE I THINK IT MAY ANSWER SOMETHING THAT YOU JUST DISCUSSED.

10:11AM 13

10:11AM 14

"AS DISCUSSED IN A MEETING WITH ELIZABETH, PLEASE REVIEW THE DATA IN THE DEVELOPMENT REPORTS FOR USABILITY TOWARDS VALIDATION AND PROPOSE WHAT WILL BE NEEDED FOR VERIFICATION FOR THE 3.5 SYSTEM WITH THE PRE-DILUTIONS."

10:11AM 15

10:11AM 16

10:11AM 17

10:11AM 18

10:11AM 19

DO YOU SEE THAT?

10:11AM 20

A. YES.

10:11AM 21

Q. SO THAT HELPS YOU UNDERSTAND THE PURPOSE OF THE EMAIL; RIGHT? IT'S TO REVIEW THE DATA IN THE DEVELOPMENT REPORTS FOR USABILITY TOWARDS THE CLIA VALIDATION.

10:11AM 22

10:11AM 23

10:11AM 24

DO YOU SEE THAT?

10:11AM 25

A. RIGHT. SO WHAT THIS IS SAYING IS, HEY, CAN WE USE THE

10:11AM 1 DATA IN THE PRE-VALIDATION FOR THE VALIDATION.

10:11AM 2 I THINK THAT'S WHAT THIS IS ASKING.

10:11AM 3 Q. OKAY. IF YOU GO TO THE SECOND PAGE OF THE DOCUMENT, YOU  
10:11AM 4 SEE THAT THAT IS AN UNSIGNED VERSION OF SOMETHING CALLED A  
10:11AM 5 MASTER VALIDATION PLAN FOR ELISA ASSAYS ON THERANOS DEVICES?

10:12AM 6 A. YES.

10:12AM 7 Q. AND THE EFFECTIVE DATE OF THE DOCUMENT IS 8/23/13?

10:12AM 8 A. YES.

10:12AM 9 Q. AND ABOVE THAT YOU SEE IT HAS DOCUMENT NUMBER  
10:12AM 10 REVISION: A?

10:12AM 11 A. YES.

10:12AM 12 Q. OKAY. AND THEN THIS IS ACTUALLY THE SAME TITLE OF THE  
10:12AM 13 DOCUMENT THAT WE SAW BEFORE IN A SIGNED VERSION BY DR. GELB AND  
10:12AM 14 OTHERS; RIGHT?

10:12AM 15 A. YES. SO MY CONFUSION HERE IS WHY THERE'S AN EFFECTIVE  
10:12AM 16 DATE WITH NO SIGNATURES.

10:12AM 17 Q. OKAY. BUT YOU RECEIVED THIS ON AUGUST 24TH, 2013; RIGHT?

10:12AM 18 A. OH, THIS IS THE ATTACHMENT? THIS IS THE CONTENTS?

10:12AM 19 Q. YES.

10:12AM 20 A. OKAY.

10:12AM 21 Q. AND YOU CAN SEE IF YOU TURN TO THE -- IT HAS PAGE NUMBERS  
10:12AM 22 AT THE VERY BOTTOM IN THE MIDDLE, AND IF YOU TURN TO PAGE 15 OF  
10:13AM 23 THE DOCUMENT, OR I GUESS IT WILL BE TURNED FOR YOU.

10:13AM 24 YOU SEE THAT THERE'S -- THAT THAT SECTION ON ALTERNATIVE  
10:13AM 25 ASSESSMENT PROCEDURE?

10:13AM 1

A. YES.

10:13AM 2

Q. AND THAT HAS THAT LANGUAGE 22.1, "BECAUSE OF UNIQUE  
FEATURES OF THE THERANOS SYSTEMS, TRADITIONAL PROFICIENCY  
TESTING PROGRAMS ARE NOT EXPECTED TO BE APPLICABLE."

10:13AM 3

10:13AM 4

10:13AM 5

DO YOU SEE THAT?

10:13AM 6

A. YES, YES.

10:13AM 7

Q. OKAY. YOU CAN PUT THAT ASIDE, DR. ROSENDORFF.

10:13AM 8

I GUESS IT WILL BE PUT ASIDE FOR YOU IF YOU'RE LOOKING AT  
THE SCREEN.

10:13AM 9

10:13AM 10

A. GOOD POINT. GOOD POINT.

10:13AM 11

Q. OKAY. IN THE EMAIL THAT WE JUST LOOKED AT, AND IF WE NEED  
TO LOOK AT IT AGAIN I SUPPOSE WE CAN, THERE'S A TRANSMISSION ON  
THE EMAIL. IT STATED THERE'S A TRANSMISSION OF AN ASSAY  
DEVELOPMENT REPORT FOR PSA AND TSH.

10:14AM 12

10:14AM 13

10:14AM 14

10:14AM 15

DO YOU RECALL THAT?

10:14AM 16

A. YES.

10:14AM 17

Q. OKAY. IF YOU COULD TAKE A LOOK AT EXHIBIT 9379.

10:14AM 18

AND YOU SEE THAT'S THE TOTAL PROSTATE SPECIFIC ANTIGEN,  
TPSA, ASSAY DEVELOPMENT REPORT?

10:14AM 19

10:14AM 20

A. YES.

10:14AM 21

Q. AND IT'S A DOCUMENT THAT GOES THROUGH FROM PAGE 1 TO  
PAGE 14?

10:15AM 22

10:15AM 23

A. OH, YES, THE LAST PAGE IS 14, UH-HUH.

10:15AM 24

Q. AND THIS IS AN ASSAY DEVELOPMENT REPORT THAT WAS  
TRANSMITTED TO YOU ALONG WITH THE EMAIL THAT WE LOOKED AT IN

10:15AM 25

10:15AM 1 EXHIBIT 1031?

10:15AM 2 A. YES.

10:15AM 3 MR. COOPERSMITH: YOUR HONOR, WE OFFER EXHIBIT 9379.

10:15AM 4 MR. BOSTIC: NO OBJECTION.

10:15AM 5 THE COURT: IT'S ADMITTED. IT MAY BE PUBLISHED.

10:15AM 6 (DEFENDANT'S EXHIBIT 9379 WAS RECEIVED IN EVIDENCE.)

10:15AM 7 BY MR. COOPERSMITH:

10:15AM 8 Q. AND YOU SEE THE TITLE AS I JUST READ IT, DR. ROSENDORFF?

10:15AM 9 A. YES.

10:15AM 10 Q. AND THEN IF YOU GO TO THE LAST PAGE, THERE'S A CONCLUSION.

10:15AM 11 DO YOU SEE THAT?

10:15AM 12 A. YES.

10:15AM 13 Q. AND IT READS, "WE HAVE SUCCESSFULLY DEVELOPED AN  
10:15AM 14 IMMUNOASSAY TO DETECT TOTAL PROSTATE-SPECIFIC ANTIGEN (PSA) IN  
10:15AM 15 HUMAN SERUM AND PLASMA."

10:16AM 16 DO YOU SEE THAT?

10:16AM 17 A. YES, I SEE THAT.

10:16AM 18 Q. AND THE "WE" THERE YOU UNDERSTAND REFERS TO THE RESEARCH  
10:16AM 19 AND DEVELOPMENT PART OF THERANOS?

10:16AM 20 A. YES.

10:16AM 21 Q. AND NOT THE CLIA VALIDATION GROUP?

10:16AM 22 A. CORRECT.

10:16AM 23 Q. AND SO TO DO THE CLIA VALIDATION OF THAT SAME ASSAY, THERE  
10:16AM 24 WOULD HAVE TO BE THIS ADDITIONAL WORK THAT IS REQUIRED TO PUT  
10:16AM 25 THIS ASSAY ONLINE IN THE CLINICAL LAB; IS THAT RIGHT?

10:16AM 1 A. CORRECT.

10:16AM 2 Q. AND THAT WOULD BE TRUE OF ANY OTHER ASSAY DEVELOPMENT

10:16AM 3 REPORT THAT EXISTED; RIGHT?

10:16AM 4 A. YES.

10:16AM 5 Q. AND THERE WERE A LOT OF ASSAY DEVELOPMENT REPORTS AT

10:16AM 6 THERANOS; RIGHT?

10:16AM 7 A. YES.

10:16AM 8 Q. THERE WERE -- WOULD IT SURPRISE YOU TO LEARN, MAYBE I

10:16AM 9 COULD SAVE MYSELF FROM LIFTING DOCUMENTS, BUT WOULD IT SURPRISE

10:16AM 10 YOU TO LEARN THAT IF WE PUT THEM IN BINDERS, THERE WOULD BE SIX

10:16AM 11 BINDERS OF ASSAY DEVELOPMENT REPORTS THAT THERANOS DEVELOPED?

10:16AM 12 A. NO, IT WOULDN'T SURPRISE ME, NO.

10:16AM 13 Q. OKAY. THAT'S CONSISTENT WITH YOUR MEMORY OF BEING AT

10:17AM 14 THERANOS THAT THERE WAS A LOT OF THAT WORK DONE?

10:17AM 15 A. YES.

10:17AM 16 Q. OKAY. THERE'S ANOTHER EXHIBIT, BUT I THINK YOU CAN SEE IT

10:17AM 17 ON YOUR SCREEN. IT'S EXHIBIT 1305.

10:17AM 18 A. OH, NOTHING IS SHOWING UP ON MY SCREEN.

10:17AM 19 Q. OKAY. LET'S SEE IF WE CAN GET THAT UP THERE.

10:17AM 20 A. OH, THERE IT IS.

10:17AM 21 Q. OKAY. AND DO YOU SEE EXHIBIT 1305 IS AN EMAIL STRING WITH

10:17AM 22 A NUMBER OF PEOPLE ON IT?

10:17AM 23 AND THEN IF YOU LOOK AT THE SECOND EMAIL ON THE FIRST

10:17AM 24 PAGE, YOU SEE THAT THERE'S AN EMAIL FROM A PRANAV PATEL.

10:18AM 25 DO YOU SEE THAT?



10:18AM 1

A. YES.

10:18AM 2

Q. AND IT'S TO A GROUP OF PEOPLE INCLUDING MR. BALWANI,

10:18AM 3

DR. YOUNG, DR. ANEKAL, AND YOURSELF.

10:18AM 4

DO YOU SEE THAT?

10:18AM 5

A. YES.

10:18AM 6

Q. AND IT RELATES TO, IN TERMS OF THE SUBJECT, TNAA UPDATE

10:18AM 7

AND VALIDATION PLANS?

10:18AM 8

A. YES.

10:18AM 9

Q. AND TNAA, DOES THAT REFER TO THERANOS NUCLEIC ACID

10:18AM 10

AMPLIFICATION?

10:18AM 11

A. YES.

10:18AM 12

Q. AND THAT'S A MOLECULAR TEST THAT THERANOS, YOU UNDERSTAND,

10:18AM 13

WAS DEVELOPING AT ONE POINT?

10:18AM 14

A. YES, YOU'VE DONE YOUR HOMEWORK.

10:18AM 15

Q. OKAY. THANK YOU, DR. ROSENDORFF.

10:18AM 16

A. SURE.

10:18AM 17

Q. AND THEN IF YOU GO TO THE EMAIL, IT ACTUALLY TALKS ABOUT

10:18AM 18

SOME ASSAY DEVELOPMENT ISSUES; IS THAT RIGHT?

10:18AM 19

A. YES.

10:18AM 20

Q. AND YOU RECEIVED THIS EMAIL AT THE TIME THAT YOU WORKED AT

10:18AM 21

THERANOS?

10:18AM 22

A. YES.

10:18AM 23

MR. COOPERSMITH: YOUR HONOR, WE OFFER 1305.

10:18AM 24

MR. BOSTIC: NO OBJECTION.

10:18AM 25

THE COURT: IS THIS IN THE BINDERS?

10:18AM 1 MR. COOPERSMITH: YOU KNOW, I THINK WE MIGHT HAVE A  
10:18AM 2 HANDOUT, YOUR HONOR, NOW THAT I THINK OF IT.  
10:19AM 3 MAY I APPROACH?  
10:19AM 4 THE COURT: YES. THANK YOU.  
10:19AM 5 MR. COOPERSMITH: (HANDING.)  
10:19AM 6 THE COURT: OKAY.  
10:19AM 7 MR. COOPERSMITH:  
10:19AM 8 Q. OKAY. LOOKING AT --  
10:19AM 9 THE COURT: I HAVEN'T ADMITTED IT. PARDON ME.  
10:19AM 10 YOU'RE AHEAD OF ME.  
10:19AM 11 IT'S ADMITTED, AND IT MAY BE PUBLISHED.  
10:19AM 12 MR. COOPERSMITH: THANK YOU.  
10:19AM 13 (GOVERNMENT'S EXHIBIT 1305 WAS RECEIVED IN EVIDENCE.)  
10:19AM 14 BY MR. COOPERSMITH:  
10:19AM 15 Q. SO WE'RE LOOKING AT THE SECOND EMAIL ON THE FIRST PAGE.  
10:19AM 16 IF WE CAN ZOOM IN ON THAT EMAIL.  
10:19AM 17 A. YES.  
10:19AM 18 Q. AND DO YOU REMEMBER PRANAV PATEL?  
10:19AM 19 A. I DO REMEMBER HIM.  
10:19AM 20 Q. ANOTHER RESEARCH AND DEVELOPMENT SCIENTIST WHO WORKED AT  
10:19AM 21 THERANOS?  
10:19AM 22 A. YES.  
10:19AM 23 Q. AND WE TALKED ABOUT THESE OTHER PEOPLE, BUT  
10:20AM 24 SAMARTHA ANEKAL, DO YOU RECALL HIM?  
10:20AM 25 A. YES.

10:20AM 1 Q. AND HE'S ANOTHER SCIENTIST WHO WORKED AT THERANOS?

10:20AM 2 A. I HONESTLY DON'T KNOW WHAT HIS PORTFOLIO OR ROLE WAS TO BE

10:20AM 3 HONEST.

10:20AM 4 Q. WAS HE INVOLVED IN MANUFACTURING?

10:20AM 5 A. I JUST DON'T KNOW.

10:20AM 6 Q. OKAY. BUT YOU DO REMEMBER THE NAME?

10:20AM 7 A. YEAH, I REMEMBER IT.

10:20AM 8 Q. OKAY. AND IN THE SECOND EMAIL DR. PATEL WRITES, "HI,

10:20AM 9 "BRIEF UPDATE TOWARDS JANUARY 31ST GOAL (DETAILED IN

10:20AM 10 ATTACHED SPREADSHEET)." ."

10:20AM 11 AND THEN, "ASSAYS DEVELOPMENT 76 ASSAYS ARE COMPLETE AND

10:20AM 12 16 IN PROGRESS. 5 OF THE (60 IN PROGRESS ARE 90 PERCENT

10:20AM 13 COMPLETE."

10:20AM 14 DO YOU SEE THAT?

10:20AM 15 A. YES.

10:20AM 16 Q. AND THEN IT SAYS, "ASSAY VALIDATION" -- AND JUST TO PAUSE

10:20AM 17 THERE FOR A MINUTE. YOU UNDERSTAND THAT'S RESEARCH AND

10:20AM 18 DEVELOPMENT?

10:20AM 19 A. ASSAYS DEV, YES.

10:20AM 20 Q. YES. THE SECOND BULLET DR. ROSENDORFF SAYS, "ASSAY

10:20AM 21 VALIDATION (WITHOUT CLINICAL SAMPLES: 20 ASSAYS VALIDATED WITH

10:21AM 22 FURTHER 33 IN PROGRESS."

10:21AM 23 A. YES.

10:21AM 24 Q. AND THEN, "LDT VALIDATION" IT SAYS, "13 ASSAYS LDT

10:21AM 25 VALIDATED WITH FURTHER 4 -- 90 PERCENT DONE."

10:21AM 1 DO YOU SEE THAT?

10:21AM 2 A. YES.

10:21AM 3 Q. AND THEN, "WE EXPECT THEM TO BE FINISHED BY END OF NEXT  
10:21AM 4 WEEK WITH FINAL REPORTS."

10:21AM 5 DO YOU SEE THAT?

10:21AM 6 A. YES.

10:21AM 7 Q. AND THEN IT SAYS, "FOLLOWING ASSAYS ARE LDT VALIDATED AS  
10:21AM 8 OF TODAY."

10:21AM 9 AND THEN IT HAS A LIST OF ASSAYS GOING ON TO THE NEXT  
10:21AM 10 PAGE.

10:21AM 11 DO YOU SEE THAT?

10:21AM 12 A. YES.

10:21AM 13 Q. AND THIS WAS ALL WORK THAT WAS BEING DONE AT THERANOS TO  
10:21AM 14 TRY TO MOVE TOWARDS VALIDATION OF THESE LABS THAT COULD  
10:21AM 15 EVENTUALLY BE USED; RIGHT?

10:21AM 16 A. I'M SORRY, COULD YOU --

10:21AM 17 Q. OF COURSE. YOU UNDERSTAND THIS WAS ALL WORK AT THERANOS  
10:21AM 18 TO VALIDATE THESE -- YOU KNOW WHAT, I'M GOING TO WITHDRAW THE  
10:21AM 19 QUESTION. I'M NOT EVEN GOING TO ATTEMPT IT.

10:21AM 20 THE COURT: MR. COOPERSMITH, MAYBE THE DECAF.

10:22AM 21 MR. COOPERSMITH: YOU KNOW, THAT'S A GREAT  
10:22AM 22 SUGGESTION, YOUR HONOR. I WILL WORK ON THAT.

10:22AM 23 THE WITNESS: THAT'S REALLY FUNNY.

10:22AM 24 (LAUGHTER.)

10:22AM 25 THE COURT: WELL, IT'S ABOUT TIME, RIGHT?

10:22AM 1 GO AHEAD, MR. COOPERSMITH.

10:22AM 2 MR. COOPERSMITH: RIGHT. I HAD ONE MORE CUP OF  
10:22AM 3 COFFEE THAN I PROBABLY SHOULD HAVE THIS MORNING.

10:22AM 4 OKAY.

10:22AM 5 Q. SO, DR. ROSENDORFF, LET'S JUST MOVE TO THE ISSUE OF  
10:22AM 6 VALIDATION IN THE CLINICAL LAB AS OPPOSED TO THE RESEARCH AND  
10:22AM 7 DEVELOPMENT WORK. OKAY?

10:22AM 8 A. SURE. YEAH.

10:22AM 9 Q. AND THAT YOU UNDERSTAND THAT THERE HAD TO BE A DECISION  
10:22AM 10 MADE BY SOMEONE AT THERANOS AS TO WHICH ASSAYS WOULD BE  
10:22AM 11 VALIDATED FROM ALL OF THE RESEARCH AND DEVELOPMENT WORK THAT  
10:22AM 12 WAS DONE, SOMEONE HAD TO JUST MAKE A DECISION WHICH ONES ARE WE  
10:22AM 13 GOING TO ACTUALLY MOVE TO VALIDATE IN THE CLIA LAB; RIGHT?

10:22AM 14 A. YEAH, FOR SURE.

10:22AM 15 Q. AND THERE WAS -- THE DECISION WAS AT LEAST IN PART A  
10:23AM 16 BUSINESS DECISION?

10:23AM 17 A. CORRECT.

10:23AM 18 Q. AND IN PART IT WAS ALSO A DECISION ABOUT WHICH ASSAYS WERE  
10:23AM 19 READY FOR THAT PROCESS; RIGHT?

10:23AM 20 A. CORRECT, CORRECT.

10:23AM 21 Q. AND IN THAT REGARD, YOU UNDERSTAND THAT THE GOAL THAT  
10:23AM 22 THERANOS HAD AT THE TIME OF THE WALGREENS LAUNCH FOR BLOOD  
10:23AM 23 TESTING WAS TO TRY TO VALIDATE ASSAYS THAT WOULD BE AMONG THE  
10:23AM 24 MOST COMMONLY ORDERED TESTS?

10:23AM 25 MR. BOSTIC: FOUNDATION. SPECULATION.

10:23AM 1 THE COURT: YOU'RE ASKING IF THAT'S HIS PERSONAL  
10:23AM 2 KNOWLEDGE?

10:23AM 3 MR. COOPERSMITH: YES, YOUR HONOR. YES.

10:23AM 4 THE COURT: YES. YOU CAN ANSWER THE QUESTION,  
10:23AM 5 WITHIN YOUR PERSONAL KNOWLEDGE.

10:23AM 6 THE WITNESS: I DO RECALL AN EFFORT EARLY IN 2013  
10:23AM 7 TO -- THAT BASICALLY SAID THAT ELIZABETH AND SUNNY'S GOAL WAS  
10:23AM 8 THAT THERANOS WOULD BE ABLE TO RUN 99 PERCENT OF LABORATORY  
10:23AM 9 TESTS OFFERED. SO THAT'S MY RECOLLECTION.

10:24AM 10 I'LL JUST STOP THERE.

10:24AM 11 BY MR. COOPERSMITH:

10:24AM 12 Q. OKAY. AND, DR. ROSENDORFF, YOU UNDERSTAND THAT OF ALL OF  
10:24AM 13 THE ASSAYS THAT A LAB COULD POTENTIALLY RUN, THAT THERE ARE  
10:24AM 14 SOME THAT ARE VERY COMMON?

10:24AM 15 A. YES.

10:24AM 16 Q. THAT DOCTORS ORDER ALL OF THE TIME?

10:24AM 17 A. YES.

10:24AM 18 Q. AND THEN THERE ARE OTHER ASSAYS THAT ARE, YOU KNOW, MORE  
10:24AM 19 OBSCURE; RIGHT?

10:24AM 20 A. YES.

10:24AM 21 Q. AND IT'S MORE RARE THAT A DOCTOR WOULD ORDER THAT  
10:24AM 22 PARTICULAR TEST; RIGHT?

10:24AM 23 A. YES.

10:24AM 24 Q. SO IF A LABORATORY WERE TO DEVELOP AN ASSAY THAT WAS ONE  
10:24AM 25 OF THOSE MORE RARE ONES, IT MIGHT DO A LOT OF WORK IN

10:24AM 1 DEVELOPING AN ASSAY, BUT AS IT TURNS OUT THEY WOULDN'T GET MANY  
10:24AM 2 ORDERS FOR IT; RIGHT?

10:24AM 3 A. YES.

10:24AM 4 Q. BUT THERE ARE OTHERS WHERE IT'S -- I THINK YOU SAID THE  
10:24AM 5 OTHER DAY IN YOUR TESTIMONY LIKE BREAD AND BUTTER TYPE ASSAYS;  
10:24AM 6 RIGHT?

10:24AM 7 A. YES.

10:24AM 8 Q. OKAY. AND YOU UNDERSTAND OR DO YOU UNDERSTAND THAT AT  
10:24AM 9 THERANOS THERE WAS AT LEAST A GOAL TO TRY TO PUT ONLINE IN THE  
10:24AM 10 CLIA LAB THE FINGERSTICK ASSAYS THAT WERE MOST COMMONLY  
10:24AM 11 ORDERED?

10:24AM 12 A. YES, THAT WAS THE INITIAL PLAN, YES.

10:24AM 13 Q. OKAY. AND YOU UNDERSTAND THAT ONE OF THE FACTORS THAT  
10:25AM 14 ACTUALLY WENT INTO WHICH ASSAYS TO ACTUALLY BRING ONLINE;  
10:25AM 15 RIGHT?

10:25AM 16 A. YES.

10:25AM 17 Q. OKAY. NOW, ONCE YOU GET TO THE CLIA VALIDATION PROCESS,  
10:25AM 18 NOW THE LAB DIRECTOR HAS TO BE SATISFIED THAT THE CRITERIA ARE  
10:25AM 19 MET TO ACTUALLY USE THE ASSAY FOR PATIENT TESTING; RIGHT?

10:25AM 20 A. YES.

10:25AM 21 Q. AND IN ORDER TO MAKE SURE THAT IS PERFORMED AND  
10:25AM 22 DOCUMENTED, THERE'S A VALIDATION REPORT THAT IS PREPARED FOR  
10:25AM 23 THAT PURPOSE?

10:25AM 24 A. YES.

10:25AM 25 Q. AND THE VALIDATION REPORTS ARE SOMETHING THAT THE

10:25AM 1 LABORATORY DIRECTOR HAS TO SIGN OFF ON?

10:25AM 2 A. CORRECT.

10:25AM 3 Q. AND YOU, AS LABORATORY DIRECTOR, WOULD HAVE TO SIGN OFF ON  
10:25AM 4 THOSE VALIDATION REPORTS; CORRECT?

10:25AM 5 A. YES.

10:25AM 6 Q. AND ULTIMATELY YOU SIGNED QUITE A FEW OF THOSE VALIDATION  
10:25AM 7 REPORTS?

10:25AM 8 A. YES.

10:25AM 9 Q. AND I'D LIKE TO SHOW YOU A BINDER -- I THINK I MAY HAVE TO  
10:26AM 10 HAND IT UP.

10:26AM 11 MR. COOPERSMITH: YOUR HONOR, MAY I APPROACH?

10:26AM 12 THE COURT: YES.

10:26AM 13 MR. COOPERSMITH: THANK YOU. (HANDING.)

10:27AM 14 Q. OKAY. DR. ROSENDORFF, I'VE HANDED YOU A BINDER, AND THE  
10:27AM 15 BINDER HAS SIGNED VALIDATION REPORTS.

10:27AM 16 YOUR HONOR, WE MOVE TO ADMIT ALL OF THESE ASSAY  
10:27AM 17 DEVELOPMENT -- I'M SORRY, CLIA VALIDATION REPORTS SIGNED BY  
10:27AM 18 DR. ROSENDORFF PURSUANT TO THE STIPULATION OF THE PARTIES.

10:27AM 19 MR. BOSTIC: YOUR HONOR, WE HAVE STIPULATED. I  
10:27AM 20 WONDER IF THE EXHIBIT NUMBERS SHOULD BE READ OUT FOR THE  
10:27AM 21 RECORD?

10:27AM 22 MR. COOPERSMITH: AND I BELIEVE WE HAVE A WRITTEN  
10:27AM 23 STIPULATION THAT WE CAN USE FOR THAT.

10:27AM 24 WITH YOUR PERMISSION, YOUR HONOR, I'LL READ THE NUMBERS,  
10:27AM 25 AND THEN I CAN HAND UP THE STIPULATION AS WELL.



10:27AM 1 THE COURT: SURE. THAT'S FINE.

10:27AM 2 MR. COOPERSMITH: THANK YOU, YOUR HONOR.

10:27AM 3 THE COURT: SO, LADIES AND GENTLEMEN, AS I TOLD YOU  
10:27AM 4 EARLIER THIS MORNING, THE PARTIES HAVE MET AND CONFERRED AND  
10:27AM 5 AGREED, AGREED UPON -- IT SOUNDS LIKE THEY HAVE AGREED UPON  
10:27AM 6 CERTAIN DOCUMENTS, AND THEY HAVE STIPULATED TO THE ADMISSION OF  
10:27AM 7 THESE DOCUMENTS.

10:28AM 8 MR. COOPERSMITH IS GOING TO READ THE STIPULATION THAT  
10:28AM 9 IDENTIFIED EACH OF THE DOCUMENTS FOR US NOW, MR. COOPERSMITH?

10:28AM 10 MR. COOPERSMITH: YES, YOUR HONOR.

10:28AM 11 THE COURT: ALL RIGHT. THANK YOU. SO PLEASE DO PAY  
10:28AM 12 ATTENTION AS THIS STIPULATION IS READ.

10:28AM 13 MR. COOPERSMITH.

10:28AM 14 MR. COOPERSMITH: YES, YOUR HONOR.

10:28AM 15 THE PARTIES STIPULATE AND AGREE TO THE ADMISSION OF THE  
10:28AM 16 FOLLOWING EXHIBITS INTO EVIDENCE: 9004, 9007, 9013, 9016,  
10:28AM 17 9020, 9026, 9031, 9042, 9046, 9048, 9052, 9057, 9082, 9086,  
10:28AM 18 9098, 9099, 9102, 9105, 9111, 9113, 9123, 9126, 9129, 9137,  
10:29AM 19 9158, 9162, 9166, 9167, 9196, 9201, 9204, 9243, 9245, 9252,  
10:29AM 20 9260, 9264, 9268, 9276, 9279, 9284, 9315, 9319, 9323, 9326,  
10:29AM 21 9341, 9352, 9368, 9372, 9375, 9378, 9381, 9382, 9384, 9387,  
10:30AM 22 9393, 9409, AND 9412.

10:30AM 23 THE COURT: DO YOU AGREE WITH THAT, MR. BOSTIC?

10:30AM 24 MR. BOSTIC: YES, YOUR HONOR, THE GOVERNMENT  
10:30AM 25 STIPULATES TO THE ADMISSION OF THOSE DOCUMENTS.

10:30AM 1 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN, AS I  
10:30AM 2 MENTIONED EARLIER THIS MORNING AS TO ANOTHER DOCUMENT, THE  
10:30AM 3 PARTIES HAVE AGREED TO THESE FACTS THAT HAVE BEEN READ TO YOU  
10:30AM 4 BY MR. COOPERSMITH.

10:30AM 5 THE COURT WILL ADMIT THOSE EXHIBITS, AND THOSE FACTS ARE  
10:30AM 6 NOW CONCLUSIVELY ESTABLISHED FOR YOU. THANK YOU.

10:30AM 7 (DEFENDANT'S EXHIBITS 9004, 9007, 9013, 9016, 9020, 9026,  
10:28AM 8 9031, 9042, 9046, 9048, 9052, 9057, 9082, 9086, 9098, 9099,  
10:28AM 9 9102, 9105, 9111, 9113, 9123, 9126, 9129, 9137, 9158, 9162,  
10:29AM 10 9166, 9167, 9196, 9201, 9204, 9243, 9245, 9252, 9260, 9264,  
10:29AM 11 9268, 9276, 9279, 9284, 9315, 9319, 9323, 9326, 9341, 9352,  
10:29AM 12 9368, 9372, 9375, 9378, 9381, 9382, 9384, 9387, 9393, 9409, AND  
10:30AM 13 9412 WERE RECEIVED IN EVIDENCE.)

10:31AM 14 MR. COOPERSMITH: YES, YOUR HONOR. WE HAVE A SIGNED  
10:31AM 15 VERSION OF IT, AND WE WILL FILE IT IN THE RECORD ONCE WE HAVE A  
10:31AM 16 CHANCE TO DO SO.

10:31AM 17 THE COURT: THAT'S FINE. THANK YOU.

10:31AM 18 MR. COOPERSMITH: THANK YOU, YOUR HONOR.

10:31AM 19 Q. OKAY. DR. ROSENDORFF, I'VE HANDED YOU A BINDER, AND I'M  
10:31AM 20 NOT GOING TO GO THROUGH EVERY ONE OF THESE, BUT IF YOU WANT TO  
10:31AM 21 JUST FAMILIARIZE YOURSELF WITH IT.

10:31AM 22 THESE ARE THE ASSAY DEVELOPMENT -- I'M SORRY, ASSAY CLIA  
10:31AM 23 VALIDATION REPORTS THAT YOU SIGNED WHILE YOU WERE THE LAB  
10:31AM 24 DIRECTOR AT THERANOS?

10:31AM 25 A. YES.

10:31AM 1 Q. OKAY. AND THESE ARE VALIDATION REPORTS FOR BOTH THE  
10:31AM 2 EDISON DEVICES AND THE MODIFIED PREDICATE DEVICES; CORRECT?

10:31AM 3 A. YES.

10:31AM 4 Q. AND JUST TO STEP BACK FOR A MINUTE, WHEN A LABORATORY  
10:31AM 5 PURCHASES AND RUNS FDA PREDICATE APPROVED EQUIPMENT UNMODIFIED,  
10:31AM 6 YOU DON'T HAVE TO DO THE VALIDATION REPORTS; RIGHT?

10:32AM 7 A. YOU DO WHAT IS CALLED A VERIFICATION. IT'S AN ABRIDGED --  
10:32AM 8 YOU RUN SAMPLES TO MAKE SURE THAT THE METHOD IS PERFORMING  
10:32AM 9 CORRECTLY, BUT IT'S NOT AS INVOLVED AS A VALIDATION.

10:32AM 10 Q. RIGHT.

10:32AM 11 A. YEAH.

10:32AM 12 Q. BUT FOR THOSE UNMODIFIED PREDICATE MACHINES, THERE'S STILL  
10:32AM 13 SOME REQUIREMENT THAT YOU RUN TESTS TO MAKE SURE THAT THE  
10:32AM 14 MACHINE IS OPERATING AS DESIGNED IN THE LABORATORY; RIGHT?

10:32AM 15 A. YES.

10:32AM 16 Q. BUT FOR THE LABORATORY DEVELOPED TESTS, THE LDT'S, THERE  
10:32AM 17 HAS TO BE A MORE EXTENSIVE VALIDATION PROCESS?

10:32AM 18 A. YES, YES.

10:32AM 19 Q. AND THAT VALIDATION PROCESS IS ACTUALLY REQUIRED BY  
10:32AM 20 REGULATION?

10:32AM 21 A. YES, IT IS.

10:32AM 22 Q. AND THAT'S THE WORK THAT IS REPRESENTED BY THE REPORTS  
10:32AM 23 THAT I'VE JUST HANDED YOU IN THAT BINDER?

10:32AM 24 A. YES, THAT'S CORRECT.

10:32AM 25 Q. OKAY. LET'S JUST LOOK AT A FEW OF THEM JUST TO ORIENT

10:33AM 1 OURSELVES.

10:33AM 2 SO, FOR EXAMPLE, IF YOU LOOK AT EXHIBIT 9412. AND THEY  
10:33AM 3 SHOULD BE IN ORDER.

10:33AM 4 AND YOU CAN SEE IT ON THE SCREEN AS WELL?

10:33AM 5 A. YES.

10:33AM 6 Q. 9412 IS THE ASSAY VALIDATION REPORT ON EDISON 3.X THERANOS  
10:33AM 7 SYSTEMS SPECIFICALLY FOR VITAMIN D.

10:33AM 8 DO YOU SEE THAT?

10:33AM 9 A. YES.

10:33AM 10 Q. AND THAT WAS SIGNED BY YOU ON SEPTEMBER 30TH OF 2013; IS  
10:33AM 11 THAT CORRECT?

10:33AM 12 A. YES.

10:33AM 13 Q. AND THEN IF YOU GO TO ANOTHER ONE, EXHIBIT 9196, THIS IS  
10:34AM 14 THE VALIDATION REPORT YOU SIGNED FOR THE ASSAY HCG?

10:34AM 15 A. YES.

10:34AM 16 Q. AND I THINK YOU DESCRIBED IT ON DIRECT WITH MR. BOSTIC,  
10:34AM 17 BUT THAT IS AN ASSAY THAT IS USED TO TEST TO SEE IF A WOMAN IS  
10:34AM 18 PREGNANT?

10:34AM 19 A. YES.

10:34AM 20 Q. AND YOU SIGNED THAT ON MARCH 9TH, 2014; IS THAT CORRECT?

10:34AM 21 A. YES.

10:34AM 22 Q. AND THEN IF YOU GO TO EXHIBIT 9409. THAT'S THE  
10:34AM 23 VITAMIN B12 ASSAY VALIDATION REPORT; RIGHT?

10:35AM 24 A. YES.

10:35AM 25 Q. AND THEN YOU SIGNED THAT DOCUMENT ON AUGUST 5TH, 2014?

10:35AM 1

A. YES.

10:35AM 2

Q. OKAY. AND THEN LET'S GO TO ONE MORE. 9155.

10:35AM 3

THIS IS THE ASSAY VALIDATION REPORT -- I'M SORRY?

10:35AM 4

MR. BOSTIC: APOLOGIES. THAT ONE IS NOT IN

10:35AM 5

EVIDENCE.

10:35AM 6

MR. COOPERSMITH: OKAY. LET'S NOT GO TO 9155 IN

10:35AM 7

THAT CASE.

10:35AM 8

LET'S GO TO 9158.

10:35AM 9

Q. 9158 IS THE ELISA ASSAY VALIDATION REPORT FOR ESTRADIOL ON

10:35AM 10

THE EDISON 3.5.

10:35AM 11

DO YOU SEE THAT?

10:35AM 12

A. YES.

10:35AM 13

Q. AND YOU SIGNED THAT ON SEPTEMBER 18TH, 2014?

10:35AM 14

A. YES.

10:35AM 15

Q. AND IN ORDER FOR AN ASSAY TO BE RUN IN THE LAB, I THINK WE

10:35AM 16

DISCUSSED THIS, YOUR SIGNATURE IS NECESSARY ON THE DOCUMENT; IS

10:35AM 17

THAT RIGHT?

10:35AM 18

A. YES.

10:35AM 19

Q. NOW, WHEN YOU SIGNED THESE VALIDATION REPORTS, IT WAS ALSO

10:36AM 20

NECESSARY FOR YOU TO REVIEW THE DATA THAT WAS PREPARED FOR THE

10:36AM 21

PURPOSE OF VALIDATION?

10:36AM 22

A. YES.

10:36AM 23

Q. AND THAT DATA WOULD INCLUDE TESTS TO DETERMINE WHETHER THE

10:36AM 24

DEVICE WAS ACCURATE, THE ASSAY WAS ACCURATE?

10:36AM 25

A. YES.

10:36AM 1 Q. AND WHETHER IT WAS PRECISE?

10:36AM 2 A. YES.

10:36AM 3 Q. AND WHETHER THERE WAS APPROPRIATE SENSITIVITY?

10:36AM 4 A. YES.

10:36AM 5 Q. AND IS SENSITIVITY WHERE YOU'RE TRYING TO MAKE SURE THAT  
10:36AM 6 THE ASSAY DETECTING THE PARTICULAR ANALYTE THAT YOU'RE  
10:36AM 7 INTERESTED IS NOT SOME OTHER ANALYTE?

10:36AM 8 A. YEAH. I MEAN, I DON'T WANT TO GET TOO TECHNICAL, BUT  
10:36AM 9 SENSITIVITY IS UNDERSTOOD IN TWO DIFFERENT WAYS.

10:36AM 10 FOR A QUANTITATIVE ASSAY, SENSITIVITY CAN ALSO REFER TO  
10:36AM 11 HOW LOW YOU CAN GO.

10:36AM 12 AND THEN THERE'S A LABORATORY CONCEPT OF SENSITIVITY,  
10:36AM 13 WHICH IS IF YOU TAKE 100 PEOPLE WITH DISEASE, AND YOU DO THE  
10:37AM 14 TEST, HOW MANY OF THOSE TESTS WILL COME UP POSITIVE.

10:37AM 15 Q. OKAY. AND THERE'S ANOTHER ASPECT THAT HAS TO BE TESTED  
10:37AM 16 CALLED SPECIFICITY; IS THAT RIGHT?

10:37AM 17 A. CORRECT, CORRECT.

10:37AM 18 Q. AND SPECIFICITY MAY BE THE ONE I WAS THINKING OF. THAT'S  
10:37AM 19 WHERE YOU'RE TRYING TO MAKE SURE THAT THE TESTS DETECT THE  
10:37AM 20 ANALYTE YOU'RE INTERESTED IN AND NOT SOMETHING ELSE; RIGHT?

10:37AM 21 A. YEAH. AGAIN, SPECIFICITY IS UNDERSTOOD IN SOME CONTEXTS  
10:37AM 22 TO MEAN INTERFERING SUBSTANCES, WHICH MEANS YOU'RE PICKING UP  
10:37AM 23 WHAT YOU THINK YOU ARE, BUT IT'S FORMALLY DEFINED AS IF YOU  
10:37AM 24 HAVE 100 PEOPLE WHO DON'T HAVE A DISEASE, HOW MANY OF THOSE ARE  
10:37AM 25 NEGATIVE.

10:37AM 1 Q. OKAY. BUT IN ANY EVENT, THESE DIFFERENT ATTRIBUTES HAVE  
10:37AM 2 TO BE PART OF THE WORK GOING INTO CLIA VALIDATION; RIGHT?  
10:37AM 3 A. YES.  
10:37AM 4 Q. AND YOU HAVE TO BE SATISFIED THAT ALL OF THOSE ARE MET TO  
10:37AM 5 PUT YOUR SIGNATURE ON THE DOCUMENT?  
10:37AM 6 A. YES.  
10:37AM 7 Q. AND THAT IN THE CASE OF THERANOS, YOU SIGNED THE  
10:38AM 8 VALIDATION REPORTS BECAUSE YOU THOUGHT THEY WERE VALID; RIGHT?  
10:38AM 9 A. I SIGNED THEM TRUSTING THAT THE DATA THAT WAS BEING SHOWN  
10:38AM 10 TO ME WAS TRUTHFUL.  
10:38AM 11 Q. AND THE DATA WAS BEING PREPARED BY RESEARCH AND  
10:38AM 12 DEVELOPMENT SCIENTISTS AT THERANOS?  
10:38AM 13 A. CORRECT.  
10:38AM 14 Q. AND YOU HAVE NO EVIDENCE OR REASON TO THINK THAT THE DATA  
10:38AM 15 THAT THEY WERE PRESENTING TO YOU WAS NOT TRUTHFUL?  
10:38AM 16 A. I DIDN'T AT THE TIME. I DO NOW.  
10:38AM 17 Q. OKAY. BUT AT THE TIME --  
10:38AM 18 A. I TRUSTED IT AT THE TIME, YEAH.  
10:38AM 19 Q. OKAY. AND YOU TRUSTED IT AT THE TIME. BUT YOU DIDN'T  
10:38AM 20 BELIEVE THAT THE PEOPLE WHO WERE PROVIDING THE DATA WERE  
10:38AM 21 SOMEHOW DISHONEST OR GIVING YOU DATA THAT WAS FALSE, DID YOU?  
10:38AM 22 A. NO. I OPERATED ON THE BASIS OF TRUST.  
10:38AM 23 Q. BECAUSE THEY WERE LIKE FELLOW SCIENTISTS WHO WORKED IN THE  
10:38AM 24 RESEARCH AND DEVELOPMENT LAB; RIGHT?  
10:38AM 25 A. EXACTLY.

10:38AM 1 Q. SUNNY BALWANI DIDN'T GIVE YOU THE DATA FOR THE ASSAY  
10:38AM 2 DEVELOPMENT REPORTS?

10:39AM 3 A. OF COURSE NOT.

10:39AM 4 Q. AND YOU SIGNED THEM BECAUSE, AGAIN, YOU THOUGHT THEY WERE  
10:39AM 5 VALID?

10:39AM 6 A. YES.

10:39AM 7 Q. AND YOU SIGNED THEM -- YOU DIDN'T SIGN THEM BECAUSE OF  
10:39AM 8 SOME PRESSURE THAT WAS PUT ON YOU, DID YOU?

10:39AM 9 A. THERE WAS AN IMMENSE AMOUNT OF PRESSURE TO GET VALIDATIONS  
10:39AM 10 DONE, AND I DIDN'T HAVE AS MUCH TIME AS I WOULD HAVE LIKED TO  
10:39AM 11 READ THEM OVER AND APPROVE THEM AND REVIEW THE DATA.

10:39AM 12 Q. SO THE PRESSURE CAME FROM THE FACT THAT THE COMPANY WAS  
10:39AM 13 PLANNING TO LAUNCH WITH THE WALGREENS STORES; CORRECT?

10:39AM 14 A. YES.

10:39AM 15 Q. AND THAT YOU UNDERSTOOD MANAGEMENT WAS VERY EAGER TO GET  
10:39AM 16 THAT PROGRAM GOING; RIGHT?

10:39AM 17 A. YES.

10:39AM 18 Q. AND ONE OF THE THINGS THAT WERE NECESSARY TO DO THAT WOULD  
10:39AM 19 BE ASSAY VALIDATION; RIGHT?

10:39AM 20 A. YES.

10:39AM 21 Q. BUT IN ANY EVENT, YOU SIGNED THEM BECAUSE THEY WERE VALID,  
10:39AM 22 NOT BECAUSE OF ANY PRESSURE THAT WAS PUT ON YOU; CORRECT?

10:39AM 23 A. CORRECT.

10:39AM 24 Q. OKAY. LET'S JUST TALK ABOUT THE MODIFIED PREDICATE  
10:40AM 25 DEVICES FOR A MINUTE.



10:40AM 1 THOSE WERE ALSO PART OF THE WORK THAT WAS DONE IN THE

10:40AM 2 RUN-UP TO THE WALGREENS LAUNCH; RIGHT?

10:40AM 3 A. YES.

10:40AM 4 Q. AND A MODIFIED PREDICATE DEVICE, AND I THINK YOU DESCRIBED

10:40AM 5 THIS EARLIER, IS AN FDA APPROVED DEVICE THAT THERANOS

10:40AM 6 PURCHASED; RIGHT?

10:40AM 7 A. YES.

10:40AM 8 Q. AND THEN HAD TO MAKE CERTAIN MODIFICATIONS TO ENABLE IT TO

10:40AM 9 RUN SMALL BLOOD SAMPLES; RIGHT?

10:40AM 10 A. YES.

10:40AM 11 Q. AND THAT WOULD INCLUDE SOME CHANGES TO THE SOFTWARE?

10:40AM 12 A. YES.

10:40AM 13 Q. AND THE HARDWARE?

10:40AM 14 A. YES.

10:40AM 15 Q. AND THERE WERE ALSO -- THERE WAS A NEED TO WORK OUT THE

10:40AM 16 DILUTION STEPS; RIGHT?

10:40AM 17 A. YES.

10:40AM 18 Q. AND DILUTION IS SIMPLY TAKING THE BLOOD SAMPLES AND ADDING

10:41AM 19 SOME OTHER LIQUID TO IT TO MAKE THE VOLUME LARGER; RIGHT?

10:41AM 20 A. YOU TAKE THE BLOOD, YOU SPIN IT DOWN, YOU TAKE OUT THE

10:41AM 21 CLEAR PORTION, AND THEN YOU ADD EITHER SALINE OR WATER TO IT,

10:41AM 22 YEAH.

10:41AM 23 Q. OKAY. AND DILUTION IN THE LAB INDUSTRY IS NOT SOMETHING

10:41AM 24 THAT IS UNCOMMON; RIGHT?

10:41AM 25 A. I COULD DESCRIBE THE CONTEXT WHERE IT'S CUSTOMARILY

10:41AM 1 PERFORMED.

10:41AM 2 Q. I THINK I WILL ASK THE QUESTIONS OF YOU, DR. ROSENDORFF.

10:41AM 3 AND THE QUESTION I HAVE, IN FDA APPROVED DEVICES, THERE ARE

10:41AM 4 DILUTION STEPS THAT TAKE PLACE INSIDE OF THE EQUIPMENT?

10:41AM 5 A. I, I -- I'M NOT ON THE EQUIPMENT DEVELOPMENT SIDE, SO I'M

10:41AM 6 NOT SURE I CAN COMMENT ON THAT.

10:41AM 7 Q. LET ME SEE IF I CAN HELP YOU. IF WE CAN TAKE A LOOK AT AN

10:41AM 8 EXHIBIT.

10:42AM 9 AND I THINK YOU CAN SEE IT ON THE SCREEN.

10:42AM 10 BUT LET'S NOT PUBLISH IT YET, MR. ALLEN.

10:42AM 11 AND DO YOU SEE THAT EXHIBIT 204 IS THE OPERATOR GUIDE FOR

10:42AM 12 THE ADVIA 1800 CHEMISTRY SYSTEM?

10:42AM 13 A. YES.

10:42AM 14 Q. AND THAT'S THE MANUFACTURER'S OPERATOR'S GUIDE DOCUMENT;

10:42AM 15 RIGHT?

10:42AM 16 A. YES.

10:42AM 17 Q. AND THERANOS HAD ADVIA 1800 MACHINES THAT IT USED; RIGHT?

10:42AM 18 A. YES.

10:42AM 19 Q. AND SO THIS WOULD BE NECESSARY TO HAVE IN POSSESSION AT

10:42AM 20 THERANOS TO RUN THAT EQUIPMENT; RIGHT?

10:42AM 21 A. YES.

10:42AM 22 Q. AND YOU'RE FAMILIAR WITH THE ADVIA 1800 OPERATOR'S GUIDE;

10:42AM 23 RIGHT?

10:42AM 24 A. NO, NOT REALLY.

10:42AM 25 Q. BUT YOU'VE SEEN IT BEFORE?

10:42AM 1 A. I THINK SO.

10:42AM 2 Q. OKAY. BUT JUST ON THE SUBJECT OF DILUTION, IF YOU COULD  
10:42AM 3 TURN TO PAGE 25.

10:43AM 4 AND YOU SEE IT HAS SOME DISCUSSION OF DILUTION THERE?

10:43AM 5 A. OH, IT SAYS -- I'M JUST READING THE SECOND TO THE LAST  
10:43AM 6 PARAGRAPH.

10:43AM 7 Q. DR. ROSENDORFF, DON'T READ FROM THE DOCUMENT BECAUSE IT'S  
10:43AM 8 NOT IN EVIDENCE YET.

10:43AM 9 A. OH, I'M SORRY. I APOLOGIZE.

10:43AM 10 Q. THANK YOU. AND WHAT I'M JUST POINTING YOU TO IS THAT  
10:43AM 11 THERE ARE SECTIONS IN THE DOCUMENT ABOUT SAMPLE DILUTION.

10:43AM 12 DO YOU SEE THAT?

10:43AM 13 A. YES.

10:43AM 14 Q. OKAY. AND THIS WAS A DOCUMENT THAT WAS PUT OUT BY THE  
10:43AM 15 SIEMENS COMPANY; RIGHT?

10:43AM 16 A. YES.

10:43AM 17 Q. NOT THERANOS?

10:43AM 18 A. CORRECT.

10:43AM 19 Q. OKAY. YOU CAN PUT THAT ASIDE.

10:43AM 20 AND JUST TO TALK A LITTLE BIT MORE ABOUT MODIFIED  
10:43AM 21 PREDICATES, IF YOU COULD TURN TO 9098, AND THAT'S ONE OF THE  
10:43AM 22 EXHIBITS IN EVIDENCE FROM THE CLIA ASSAY BINDER THAT WE GAVE  
10:44AM 23 YOU A FEW MINUTES AGO.

10:44AM 24 A. UH-HUH.

10:44AM 25 Q. AND THIS DOCUMENT HAS TO DO WITH THE ASSAY CALLED

10:44AM 1 CHLORIDE.

10:44AM 2 DO YOU SEE THAT?

10:44AM 3 A. YES.

10:44AM 4 Q. AND THAT'S ONE OF THE ISE ASSAYS; RIGHT?

10:44AM 5 A. YES.

10:44AM 6 Q. ALONG WITH SODIUM AND POTASSIUM?

10:44AM 7 A. CORRECT.

10:44AM 8 Q. AND THE DOCUMENT READS VALIDATION OF MODIFIED SIEMENS

10:44AM 9 CHLORIDE ASSAY.

10:44AM 10 DO YOU SEE THAT?

10:44AM 11 A. YES.

10:44AM 12 Q. AND SO FOR ONE OF THOSE ASSAYS TO BE PRODUCED AT THERANOS,

10:44AM 13 THAT SAME PROCESS OF ASSAY VALIDATION HAD TO BE USED; RIGHT?

10:44AM 14 A. YES.

10:44AM 15 Q. OKAY. AND THAT'S YOUR SIGNATURE ON THE DOCUMENT IN THIS

10:44AM 16 CASE?

10:44AM 17 A. YES.

10:44AM 18 Q. OKAY. AND I THINK ON YOUR DIRECT EXAMINATION YOU TALKED

10:44AM 19 ABOUT SOME ISSUES WITH THE PARTICULAR ASSAY CALLED POTASSIUM.

10:44AM 20 DO YOU REMEMBER THAT?

10:44AM 21 A. YES.

10:44AM 22 Q. OKAY. AND WE'LL GET TO THAT LATER ON.

10:45AM 23 BUT FOR THE MOMENT, YOU BELIEVED, WHILE YOU WERE WORKING

10:45AM 24 AT THERANOS, THAT THE THERANOS PROTOCOLS RUNNING ON ADVIAS, THE

10:45AM 25 MODIFIED PREDICATES, WORKED REMARKABLY WELL, EXCEPT FOR

10:45AM 1 POTASSIUM; RIGHT?

10:45AM 2 A. AT THE TIME OF VALIDATION I THOUGHT THEY WERE WORKING  
10:45AM 3 WELL.

10:45AM 4 AS WE WENT INTO PRODUCTION, AND AS TIME WENT ON I KNEW  
10:45AM 5 THEY WEREN'T.

10:45AM 6 Q. BUT YOU BELIEVED, EVEN WHEN YOU LEFT THERANOS, THAT THE  
10:45AM 7 MODIFIED PREDICATES WORKED REMARKABLY WELL, WITH THE EXCEPTION  
10:45AM 8 OF THE POTASSIUM THAT WE'LL DISCUSS LATER?

10:45AM 9 A. THAT'S NOT MY BELIEF, SIR, NO.

10:45AM 10 Q. OKAY. I'D LIKE YOU TO TURN TO EXHIBIT 28403. I'M SORRY.  
10:46AM 11 28324.

10:46AM 12 MR. BOSTIC: COUNSEL, WHAT BINDER IS THAT IN?

10:46AM 13 MR. COOPERSMITH: I'M TRYING TO DETERMINE THAT  
10:46AM 14 MYSELF.

10:46AM 15 COULD WE SHOW 28324 ON THE SCREEN, WITHOUT PUBLISHING IT  
10:46AM 16 OBVIOUSLY.

10:46AM 17 THE COURT: VOLUME 3, I BELIEVE.

10:46AM 18 MR. COOPERSMITH: THANK YOU, YOUR HONOR.

10:47AM 19 (PAUSE IN PROCEEDINGS.)

10:47AM 20 BY MR. COOPERSMITH:

10:47AM 21 Q. OKAY. WELL, LOOKING AT IT ON THE SCREEN, IF YOU COULD  
10:47AM 22 TURN TO PAGE 5, OR IT WILL BE TURNED FOR YOU ON THE SCREEN.

10:47AM 23 AND PRIOR TO YOUR TESTIMONY IN COURT, DR. ROSENDORFF, YOU  
10:47AM 24 MET WITH THE GOVERNMENT ON MANY OCCASIONS?

10:47AM 25 A. CORRECT.

10:47AM 1 Q. AND YOU PROVIDED THEM INFORMATION ABOUT WHAT YOU RECALLED  
10:47AM 2 ABOUT YOUR TIME AT THERANOS?  
10:47AM 3 A. CORRECT.  
10:47AM 4 Q. AND THOSE INTERVIEWS WERE ATTENDED BY FEDERAL AGENTS; IS  
10:47AM 5 THAT RIGHT?  
10:47AM 6 A. CORRECT.  
10:47AM 7 Q. AND THEY WERE ATTENDED BY PROSECUTORS?  
10:47AM 8 A. CORRECT.  
10:47AM 9 Q. AND INCLUDING SOME OF THE PROSECUTORS WHO ARE SITTING AT  
10:48AM 10 THE TABLE TODAY?  
10:48AM 11 A. SO I RECALL MR. LEACH WAS PRESENT DURING THE S.E.C.  
10:48AM 12 INTERVIEW.  
10:48AM 13 Q. OKAY. AND IF WE CAN TURN TO THE FIRST PAGE OF THE  
10:48AM 14 DOCUMENT.  
10:48AM 15 SOMETIMES THERE WERE OTHER AGENCIES INVOLVED WITH THE  
10:48AM 16 INTERVIEWS, TOO?  
10:48AM 17 A. CORRECT.  
10:48AM 18 Q. AND THERE WAS A PARTICULAR INTERVIEW ON JUNE 7TH OF 2017?  
10:48AM 19 A. I DON'T INDEPENDENTLY RECALL THAT. I'M JUST READING THE  
10:48AM 20 DATE.  
10:48AM 21 Q. OKAY. DO YOU HAVE ANY DOUBT THAT YOU HAD AN INTERVIEW ON  
10:48AM 22 JUNE 7TH, 2017?  
10:48AM 23 A. NO, I HAVE NO REASON TO DOUBT IT.  
10:48AM 24 Q. OKAY. AND THAT WAS AFTER YOU LEFT THERANOS?  
10:48AM 25 A. CORRECT.

10:48AM 1 Q. AND IT WAS ABOUT FIVE YEARS AGO; RIGHT?

10:48AM 2 A. YES.

10:48AM 3 Q. AND AT THE TIME, YOU WERE PROVIDING INFORMATION ABOUT  
10:48AM 4 THERANOS AND WHAT YOU RECALLED; IS THAT RIGHT?

10:48AM 5 A. YES.

10:48AM 6 Q. AND YOU KNEW THAT IT WAS IMPORTANT THAT YOU TOLD THE  
10:48AM 7 TRUTH?

10:49AM 8 A. YES.

10:49AM 9 Q. AND YOU DID YOUR BEST TO TELL THE TRUTH?

10:49AM 10 A. YES.

10:49AM 11 Q. AND YOU KNEW THAT IF YOU DIDN'T TELL THE TRUTH, THERE  
10:49AM 12 COULD BE CONSEQUENCES; RIGHT?

10:49AM 13 A. YES.

10:49AM 14 Q. BECAUSE YOU WERE TALKING TO FEDERAL AGENTS AND  
10:49AM 15 PROSECUTORS?

10:49AM 16 A. YES.

10:49AM 17 Q. OKAY. AND DURING THE INTERVIEW -- IF YOU FLIP TO PAGE 5,  
10:49AM 18 MR. ALLEN -- YOU TOLD THE GOVERNMENT THAT YOU BELIEVED THE T  
10:49AM 19 PROTOCOL AND FINGERSTICK DRAW WORKED REMARKABLY WELL FOR MOST  
10:49AM 20 ANALYTES OTHER THAN POTASSIUM, YOU HAD NO OTHER CONCERNS ABOUT  
10:49AM 21 THERANOS ASSAYS.

10:49AM 22 THAT'S WHAT YOU TOLD THE GOVERNMENT?

10:49AM 23 A. I BELIEVE SO, YES.

10:49AM 24 Q. OKAY. DR. ROSENDORFF, LET'S JUST TALK ABOUT THERANOS  
10:50AM 25 TECHNOLOGY IN GENERAL FOR A MINUTE?

10:50AM 1 A. SURE.

10:50AM 2 Q. IF YOU COULD TURN TO -- OR IT WILL BE ON THE SCREEN, I  
10:50AM 3 KEEP FORGETTING -- EXHIBIT 7462.

10:50AM 4 EXHIBIT 7462 DO YOU SEE IS AN EMAIL STRING BETWEEN YOU AND  
10:50AM 5 MR. BALWANI BASED ON THE FEW TOP EMAILS?

10:50AM 6 A. YES.

10:50AM 7 Q. AND THEN THERE WERE OTHER PEOPLE WHO WORKED AT THERANOS  
10:50AM 8 WHO WERE COPIED OR SENDERS ON THE OTHER EMAILS; RIGHT?

10:50AM 9 A. YES.

10:50AM 10 Q. AND IT'S DATED IN JULY, JULY 18TH AND 19TH, 2014?

10:50AM 11 A. YES.

10:50AM 12 Q. IS THAT RIGHT?

10:51AM 13 AND THIS IS A DOCUMENT THAT YOU SENT OR RECEIVED AS THE  
10:51AM 14 EMAIL -- AS THE CASE MIGHT BE FOR PURPOSES OF CONDUCTING THE  
10:51AM 15 BUSINESS AT THERANOS AT THE TIME?

10:51AM 16 A. YES.

10:51AM 17 Q. AND YOU USED EMAILS AT THERANOS FREQUENTLY TO COMMUNICATE  
10:51AM 18 ISSUES AND THINGS THAT WERE GOING ON?

10:51AM 19 A. YES.

10:51AM 20 Q. AND YOU WERE REPORTING ON EVENTS THAT OCCURRED THAT YOU  
10:51AM 21 LEARNED WHILE YOU WERE ON THE JOB; IS THAT RIGHT?

10:51AM 22 A. YES.

10:51AM 23 Q. AND YOU KNEW THAT IT WAS IMPORTANT TO BE ACCURATE WHEN YOU  
10:51AM 24 COMMUNICATED THOSE THINGS SO THAT THE COMPANY WOULD BE ABLE TO  
10:51AM 25 TAKE ACTION ACCORDINGLY?



10:51AM 1

A. YES.

10:51AM 2

Q. AND YOU KNEW THAT THERANOS HAD A SYSTEM TO STORE THESE

10:51AM 3

EMAILS SO THAT IF THERE WAS ANY NEED TO REFER BACK TO THEM,

10:51AM 4

THEY COULD DO THAT?

10:51AM 5

A. YES.

10:51AM 6

MR. COOPERSMITH: YOUR HONOR, WE OFFER 7462.

10:51AM 7

MR. BOSTIC: NO OBJECTION.

10:51AM 8

THE COURT: IT'S ADMITTED. IT MAY BE PUBLISHED.

10:51AM 9

(DEFENDANT'S EXHIBIT 7462 WAS RECEIVED IN EVIDENCE.)

10:51AM 10

BY MR. COOPERSMITH:

10:51AM 11

Q. OKAY. LET'S GO TO THE EARLIEST EMAIL IN TIME, WHICH IS ON

10:51AM 12

PAGE -- THE SECOND TO THE LAST PAGE.

10:52AM 13

AND DO YOU SEE THERE'S AN EMAIL FROM AMELIA AGUIRRE?

10:52AM 14

A. YES.

10:52AM 15

Q. AND SHE WAS SOMEONE WHO WORKED AT THERANOS?

10:52AM 16

A. YES.

10:52AM 17

Q. WAS SHE A CUSTOMER SERVICE REPRESENTATIVE?

10:52AM 18

A. I THINK SO, YEAH, YEAH.

10:52AM 19

Q. OKAY. AND SHE SENDS IT TO YOU, THIS PARTICULAR EMAIL, AND

10:52AM 20

NICHOLAS MENCHEL.

10:52AM 21

DO YOU SEE THAT?

10:52AM 22

A. YES.

10:52AM 23

Q. AND MR. MENCHEL WAS A PROJECT MANAGER?

10:52AM 24

A. YES.

10:52AM 25

Q. AND IT SAYS "HI ADAM,

10:52AM 1 "DR. PHILIP CHEN WOULD LIKE TO BE CALLED ABOUT LIPID PANEL  
10:52AM 2 RESULTS."

10:52AM 3 AND IT HAS A CERTAIN PATIENT, BUT THE NAME IS REDACTED.  
10:52AM 4 DO YOU SEE THAT?

10:52AM 5 A. YES.

10:52AM 6 Q. AND IT SAYS, "DR. CHEN INDICATED THE RESULTS ARE NOT  
10:52AM 7 CONSISTENT WITH PATIENT'S HISTORY. THIS IS THE ONLY PATIENT  
10:52AM 8 THAT DR. CHEN HAS SENT TO THERANOS AND THE PATIENT HAS ONLY  
10:52AM 9 COME IN ONCE."

10:52AM 10 DO YOU SEE THAT?

10:52AM 11 A. YES.

10:52AM 12 Q. AND THIS WAS AN INQUIRY THAT YOU LEARNED ABOUT FROM A  
10:52AM 13 PHYSICIAN NAME DR. CHEN.

10:53AM 14 DO YOU SEE THAT?

10:53AM 15 A. YES.

10:53AM 16 Q. OKAY. AND THEN THE ISSUE HAS TO DO WITH A LIPID PANEL;  
10:53AM 17 RIGHT?

10:53AM 18 A. YES.

10:53AM 19 Q. AND THAT'S LIKE HDL AND LDL?

10:53AM 20 A. CORRECT.

10:53AM 21 Q. IF YOU GO TO THE PAGE, AND WE'LL JUST USE THE BATES NUMBER  
10:53AM 22 BECAUSE THERE'S NO PAGE NUMBERS, IT'S ENDING IN 586.

10:53AM 23 YOU SEE THERE'S AN EMAIL FROM YOU AT THE VERY BOTTOM,  
10:53AM 24 "SPOKE TO PHYSICIAN, DR. PHILIP CHEN -- HE WOULD LIKE A RERUN.  
10:53AM 25 IF THIS IS NOT POSSIBLE, WE WILL DO A REDRAW."

10:53AM 1 DO YOU SEE THAT?

10:53AM 2 A. YES.

10:53AM 3 Q. AND THEN YOUR EMAIL GOES ON TO THE NEXT PAGE, AND THEN YOU  
10:53AM 4 WROTE DOWN SOME DETAILS IN FOUR BULLET POINTS.

10:53AM 5 DO YOU SEE THAT?

10:53AM 6 A. YES.

10:53AM 7 Q. AND THE FIRST BULLET POINT IS ABOUT CHOLESTEROL AND LDL  
10:53AM 8 AND THEY'RE RUNNING 30 PERCENT HIGHER THAN THE PATIENT'S  
10:53AM 9 BASELINE.

10:53AM 10 DO YOU SEE THAT?

10:53AM 11 A. YES.

10:53AM 12 Q. AND THEN THE SECOND BULLET SAYS THE PHYSICIAN EXPRESSED  
10:53AM 13 DOUBTS REGARDING THE TECHNOLOGY?

10:53AM 14 A. YES.

10:53AM 15 Q. AND REPEATEDLY ASKED YOU ABOUT WHAT OUR METHOD IS AND HOW  
10:54AM 16 WE ENSURE ACCURACY.

10:54AM 17 DO YOU SEE THAT?

10:54AM 18 A. YES.

10:54AM 19 Q. AND THEN YOU REPORT THERE, "I REPLIED THAT THERANOS  
10:54AM 20 METHODS HAVE BEEN EXTENSIVELY VALIDATED AGAINST FDA APPROVED  
10:54AM 21 PREDICATE METHODS -- I DIDN'T DESCRIBE THE THERANOS METHOD PER  
10:54AM 22 COMPANY'S NONDISCLOSURE AND CONFIDENTIALITY RULES."

10:54AM 23 DO YOU SEE THAT?

10:54AM 24 A. YES.

10:54AM 25 Q. AND THOSE ARE YOUR WORDS, SIR?

10:54AM 1 A. I BELIEVE SO. I MEAN, THEY'RE APPENDED TO AN EMAIL THAT  
10:54AM 2 CAME FROM ME, SO, YEAH.

10:54AM 3 Q. OKAY. AND THEN THE NEXT BULLET POINT YOU WROTE,  
10:54AM 4 "PHYSICIAN ASKED IF HE IS THE ONLY M.D. QUERYING LIPID  
10:54AM 5 RESULTS."

10:54AM 6 DO YOU SEE THAT?

10:54AM 7 A. YES.

10:54AM 8 Q. AND YOU SAID, AS YOU REPORTED IN THIS EMAIL, "I ANSWERED  
10:54AM 9 THAT THE RATE OF PHYSICIAN QUERIES IS NOT HIGHER THAN MIGHT BE  
10:54AM 10 EXPECTED, AND IS NOT HIGHER THAN IN MY PREVIOUS JOB AT  
10:54AM 11 UNIVERSITY OF PITTSBURGH."

10:54AM 12 DO YOU SEE THAT?

10:54AM 13 A. YES.

10:54AM 14 Q. AND THAT'S WHAT YOU REPORTED TO THE PHYSICIAN WHEN HE  
10:54AM 15 ASKED YOU THAT QUESTION; RIGHT?

10:54AM 16 A. YES.

10:54AM 17 Q. AND THEN YOU REPORTED THAT IN TURN TO OTHER PEOPLE AT  
10:54AM 18 THERANOS?

10:54AM 19 A. YES.

10:54AM 20 Q. OKAY. LET'S GO TO THE EMAIL ABOVE THAT ONE.

10:55AM 21 AND THEN YOU SENT AN EMAIL TO AGAIN MR. MENCHEL AND

10:55AM 22 MS. AGUIRRE, AND THEN YOU COPIED TINA LIN AND NISHIT DOSHI AND  
10:55AM 23 DR. YOUNG; RIGHT?

10:55AM 24 A. YES.

10:55AM 25 Q. AND BECAUSE, UNLIKE MR. MENCHEL AND AGUIRRE, THE OTHER

10:55AM 1 PEOPLE WERE PEOPLE WHO WORKED IN THE RESEARCH AND DEVELOPMENT

10:55AM 2 OR THE CLIA LAB; RIGHT?

10:55AM 3 A. YES.

10:55AM 4 Q. OKAY. AND THERE YOU WROTE, "TINA/NISHIT/DANIEL,

10:55AM 5 "CAN WE PLEASE REVIEW THE CTN IMAGE FOR THE FOLLOWING

10:55AM 6 PATIENT, BASED ON THE QUERY BELOW?"

10:55AM 7 DO YOU SEE THAT?

10:55AM 8 A. YES.

10:55AM 9 Q. AND SO THE CTN IMAGE IS BASICALLY LIKE A PHOTO OF THE CTN;

10:55AM 10 RIGHT?

10:55AM 11 A. YES.

10:55AM 12 Q. AND THE CTN IS THE CAPILLARY TUBE AND NANOTAINER?

10:55AM 13 A. YES.

10:55AM 14 Q. AND THAT'S THE DEVICE THAT ACTUALLY COLLECT THE BLOOD FROM

10:56AM 15 THE FINGER; RIGHT?

10:56AM 16 A. CORRECT.

10:56AM 17 Q. AND LOOKING AT THE IMAGE MIGHT HELP YOU UNDERSTAND IF

10:56AM 18 THERE WAS SOME PROBLEM WITH THE WAY THE SAMPLE WAS COLLECTED;

10:56AM 19 RIGHT?

10:56AM 20 A. WELL, THAT WAS THE THEORY, YEAH.

10:56AM 21 Q. OKAY. WELL, THAT'S WHAT YOU ASKED FOR?

10:56AM 22 A. YES.

10:56AM 23 Q. OKAY. AND THEN IF YOU GO UP THE CHAIN HERE, THERE'S AN

10:56AM 24 EMAIL AT THE BOTTOM OF THE PAGE ENDING WITH 584, AND WE'LL JUST

10:56AM 25 LOOK AT THE VERY TOP PART OF THAT FROM NISHIT DOSHI.

10:56AM 1 DO YOU SEE THAT?

10:56AM 2 A. YES.

10:56AM 3 Q. AND DR. DOSHI WAS SOMEONE WHO WORKED IN THE NORMANDY LAB;  
10:56AM 4 CORRECT?

10:56AM 5 A. YES.

10:56AM 6 Q. AND IT SAYS, IF YOU GO TO THE NEXT PAGE AND LOOK AT THE  
10:56AM 7 EMAIL, IT SAYS, "HI SUNNY,

10:56AM 8 "I AM NOT SURE IF YOU READ THIS ALREADY.

10:56AM 9 "WE ARE CONFIDENT ABOUT OUR LIPID PANEL RESULTS BASED ON  
10:57AM 10 THE DAILY RUNS WHERE WE COMPARE FINGERSTICK SAMPLES TO NEAT  
10:57AM 11 VENOUS (PREDICATE) ."

10:57AM 12 RIGHT?

10:57AM 13 A. YES.

10:57AM 14 Q. AND ABOVE THAT SUNNY BALWANI WRITES TO YOU, AND HE SAYS,  
10:57AM 15 "ADAM,

10:57AM 16 "WE NEED TO CALL THIS DOCTOR AND BE A BIT MORE FIRM ABOUT  
10:57AM 17 OUR PERFORMANCE. WE CAN DO A REDRAW BUT HIS IGNORANT COMMENTS  
10:57AM 18 ARE NOT OK. YOU CAN EXPLAIN TO HIM WE RUN THOUSANDS OF SAMPLES  
10:57AM 19 AND OUR SAMPLE TRACKING IS VERY TIGHT."

10:57AM 20 DO YOU SEE THAT?

10:57AM 21 A. YES.

10:57AM 22 Q. AND THEN HE SAYS, "WE CAN DO REDRAW FOR NO CHARGE TO THE  
10:57AM 23 PATIENT, NO PROBLEMS."

10:57AM 24 DO YOU SEE THAT?

10:57AM 25 A. YES.

10:57AM 1 Q. AND DOCTOR -- MR. BALWANI WROTE THAT JUST TEN MINUTES  
10:57AM 2 AFTER HE GOT THE EMAIL FROM MR. DOSHI.

10:57AM 3 DO YOU SEE THAT?

10:57AM 4 A. YES.

10:57AM 5 Q. AND THEN YOU WROTE IN RESPONSE, A LITTLE BIT LATER IN THE  
10:57AM 6 AFTERNOON, "SUNNY,

10:57AM 7 "I WAS EMPHATIC WITH DR. CHEN REGARDING OUR RIGOROUS  
10:57AM 8 VALIDATION AND QUALITY PROCESS. I DO NOT AGREE WITH ANY OF  
10:58AM 9 DR. CHEN'S INSINUATIONS. IN MY EXPERIENCE, THERE ARE ALWAYS A  
10:58AM 10 HANDFUL OF M.D.'S WHO REFUSE TO ACKNOWLEDGE SCIENTIFIC DATA  
10:58AM 11 ABOUT THEIR PATIENTS. WE HAVE NOW REVIEWED THE CTN IMAGINE AND  
10:58AM 12 ALL QC IS IN ORDER."

10:58AM 13 DO YOU SEE THAT?

10:58AM 14 A. YES.

10:58AM 15 Q. AND THEN YOU WROTE, "IF THERE IS FURTHER MESSAGING I  
10:58AM 16 SHOULD BE RELAYING, PLEASE LET ME KNOW."

10:58AM 17 RIGHT?

10:58AM 18 A. YES.

10:58AM 19 Q. AND THEN MR. BALWANI RESPONDED, "THAT'S AWESOME, ADAM. I  
10:58AM 20 APPRECIATE IT. I THINK YOU ARE RIGHT, SOME WILL ALWAYS BE  
10:58AM 21 DOUBTERS -- HAPPENS WITH EVERY NEW TECHNOLOGY. THANKS."

10:58AM 22 DO YOU SEE THAT?

10:58AM 23 A. YES.

10:58AM 24 Q. AND THAT'S WHAT YOUR EXCHANGE WITH MR. BALWANI WAS AT THAT  
10:58AM 25 TIME; RIGHT?

10:58AM 1 A. YES.

10:58AM 2 Q. OKAY. YOU CAN PUT THAT ASIDE, OR WE WILL PUT THAT ASIDE.

10:58AM 3 AND, DR. ROSENDORFF, WHEN YOU WERE AT THERANOS, YOU NEVER

10:59AM 4 OFFERED TESTS THAT YOU THOUGHT WERE INACCURATE AND UNRELIABLE

10:59AM 5 WHILE YOU WERE SERVING AS LAB DIRECTOR?

10:59AM 6 A. SO THAT'S A BIT OF A LEADING QUESTION, I THINK.

10:59AM 7 Q. I'M ALLOWED TO ASK THOSE.

10:59AM 8 (LAUGHTER.)

10:59AM 9 THE WITNESS: ONE DOESN'T KNOW AT THE TIME THAT A

10:59AM 10 RESULT IS INACCURATE. IT OFTEN COMES TO LIGHT AFTER THE FACT

10:59AM 11 WHERE A PHYSICIAN QUERIES RESULTS OR QC STARTS TO FAIL OR YOU

10:59AM 12 SEE A RASH OF ABNORMAL VALUES THAT ARE NOT EXPECTED TO OCCUR

10:59AM 13 STATISTICALLY. SO --

10:59AM 14 BY MR. COOPERSMITH:

10:59AM 15 Q. THANK YOU, DR. ROSENDORFF. BUT LET ME ASK THE QUESTION AS

10:59AM 16 PRECISELY AS I CAN,

10:59AM 17 A. UH-HUH.

10:59AM 18 Q. WHILE YOU WERE THE LAB DIRECTOR AT THERANOS, YOU NEVER

10:59AM 19 THOUGHT THAT TESTS THAT YOU WERE OFFERING AND RELEASING WERE

10:59AM 20 INACCURATE OR UNRELIABLE; CORRECT?

11:00AM 21 A. I CAME TO DOUBT THE ACCURACY OF THE TESTING, AND WHEN

11:00AM 22 THOSE DOUBTS REACHED A CERTAIN THRESHOLD, I LEFT THE COMPANY.

11:00AM 23 Q. OKAY. BUT WHILE YOU WERE AT THERANOS, YOU DID NOT RELEASE

11:00AM 24 OR AUTHORIZE THE RELEASE OF ANY RESULT THAT YOU THOUGHT WAS

11:00AM 25 INACCURATE OR UNRELIABLE? YOU WOULDN'T DO THAT; RIGHT?



11:00AM 1 A. WELL, HOW AM I SUPPOSED TO KNOW AT THE TIME WHETHER  
11:00AM 2 RESULTS ARE INACCURATE?

11:00AM 3 Q. WELL, WHEN YOU WERE AT THERANOS, RESULTS WERE OBTAINED  
11:00AM 4 FROM THE BLOOD TESTS THAT WERE CONDUCTED ON PATIENTS; RIGHT?

11:00AM 5 A. YES.

11:00AM 6 Q. AND IF THE LAB BELIEVED THOSE WERE APPROPRIATE, THOSE WERE  
11:00AM 7 RELEASED TO PATIENTS; RIGHT?

11:00AM 8 A. YES.

11:00AM 9 Q. AND YOU NEVER RELEASED RESULTS, OR ALLOWED THAT TO HAPPEN,  
11:00AM 10 IF YOU HAD A DOUBT AS TO WHETHER THE RESULT WAS ACCURATE;  
11:00AM 11 RIGHT?

11:00AM 12 A. IF QC PASSES AND IF PROCEDURES ARE FOLLOWED AND THERE'S NO  
11:00AM 13 DEVIATION FROM SOP, THE PROCEDURE IS TO RELEASE THE RESULTS.

11:00AM 14 Q. AND THAT'S WHAT YOU WOULD DO?

11:01AM 15 A. YES.

11:01AM 16 Q. AND WHEN YOU DID THAT, YOU WERE NOT ALLOWING RESULTS TO BE  
11:01AM 17 RELEASED WITH THE BELIEF THAT THEY WERE INACCURATE OR  
11:01AM 18 UNRELIABLE; RIGHT?

11:01AM 19 A. IT'S NOT REALLY A QUESTION OF BELIEF.  
11:01AM 20 IT'S A QUESTION OF FOLLOWING ESTABLISHED QUALITY  
11:01AM 21 PROTOCOLS.

11:01AM 22 Q. OKAY. AND YOU NEVER PROVIDED PATIENT RESULTS THAT YOU  
11:01AM 23 KNEW WERE INACCURATE OR UNRELIABLE AT THE TIME YOU PROVIDED  
11:01AM 24 THEM; CORRECT?

11:01AM 25 A. CORRECT.

11:01AM 1 Q. AND YOU WERE NEVER TOLD BY MR. BALWANI TO REPORT AN  
11:01AM 2 INACCURATE REPORT?  
11:01AM 3 A. NO.  
11:01AM 4 Q. AND YOU WERE NEVER TOLD BY MS. HOLMES TO REPORT AN  
11:01AM 5 INACCURATE REPORT?  
11:01AM 6 A. NO.  
11:01AM 7 Q. OKAY. DR. ROSENDORFF, LET'S SWITCH TO ANOTHER TOPIC,  
11:01AM 8 WHICH IS THE LAUNCH OF THE TESTING SERVICES AT WALGREENS.  
11:02AM 9 OKAY?  
11:02AM 10 A. UH-HUH.  
11:02AM 11 THE COURT: LET'S HAVE -- FOLKS, STAND AND STRETCH  
11:02AM 12 IF YOU WOULD LIKE FOR JUST A MOMENT WHILE WE LOOK AT THAT.  
11:02AM 13 WE'LL BREAK IN ABOUT AN HOUR.  
11:02AM 14 MR. COOPERSMITH: I'M SORRY?  
11:02AM 15 THE COURT: WE'LL BREAK AT NOON.  
11:02AM 16 MR. COOPERSMITH: THANK YOU, YOUR HONOR.  
11:02AM 17 (STRETCHING.)  
11:02AM 18 THE COURT: MR. COOPERSMITH.  
11:02AM 19 MR. COOPERSMITH: THANK YOU, YOUR HONOR.  
11:02AM 20 Q. TO START OFF ON THIS TOP, DR. ROSENDORFF, CAN YOU TAKE A  
11:02AM 21 LOOK AT EXHIBIT 7314.  
11:03AM 22 AND DO YOU SEE THIS IS AN EMAIL AMONG MR. BALWANI,  
11:03AM 23 MS. HOLMES, AND DR. YOUNG?  
11:03AM 24 A. YES.  
11:03AM 25 Q. AND YOU'RE NOT ON THIS PARTICULAR EMAIL; RIGHT?

11:03AM 1 A. NO.

11:03AM 2 Q. BUT WHILE YOU WERE AT THERANOS, YOU KNEW THERE WERE A LOT

11:03AM 3 OF EMAILS GOING BACK AND FORTH AMONG VARIOUS PEOPLE THAT YOU

11:03AM 4 WERE NOT NECESSARILY ON THE EMAIL; RIGHT?

11:03AM 5 A. YEAH. THERE WERE A LOT OF EMAILS THAT I SHOULD HAVE BEEN

11:03AM 6 ON THAT I WASN'T.

11:03AM 7 Q. OKAY. BUT THERE WERE SOME, EVEN IF YOU SHOULD OR

11:03AM 8 SHOULDN'T HAVE BEEN ON THEM, YOU KNEW THAT THERE WERE OTHER

11:03AM 9 EMAILS BEING SENT WHERE YOU WERE NOT ON THE EMAILS; RIGHT?

11:03AM 10 A. ARE YOU ASKING ME IF I WAS CC'D ON EVERY EMAIL

11:03AM 11 COMMUNICATION IN THE COMPANY?

11:03AM 12 Q. RIGHT. AND OF COURSE YOU WEREN'T; RIGHT?

11:03AM 13 A. NO.

11:03AM 14 Q. AND SOMETIMES YOU SENT EMAILS AND YOU DIDN'T COPY

11:03AM 15 EVERYONE?

11:03AM 16 A. NO, NO.

11:03AM 17 Q. OKAY. AND -- BUT YOU UNDERSTOOD THAT IN THERANOS, AS WE

11:04AM 18 DISCUSSED BEFORE, EMAILS WERE THE SYSTEM USED TO TRANSMIT

11:04AM 19 INFORMATION; RIGHT?

11:04AM 20 A. YES.

11:04AM 21 Q. AND PEOPLE LIKE DR. YOUNG WERE TRANSMITTING INFORMATION

11:04AM 22 FOR THE PURPOSE OF TRYING TO GET THERANOS'S WORK DONE?

11:04AM 23 MR. BOSTIC: FOUNDATION.

11:04AM 24 THE COURT: YOU'RE DOING THAT NOW?

11:04AM 25 MR. COOPERSMITH: I AM TRYING, YOUR HONOR.

11:04AM 1 Q. SO, DR. ROSENDORFF, YOU RECEIVED A LOT OF EMAILS FROM  
11:04AM 2 DR. YOUNG; RIGHT?  
11:04AM 3 A. YES.  
11:04AM 4 Q. AND YOU SENT A LOT OF EMAILS TO DR. YOUNG?  
11:04AM 5 A. YES.  
11:04AM 6 Q. AND WHEN DR. YOUNG COMMUNICATED WITH YOU BY EMAIL, HE WAS  
11:04AM 7 TRYING TO PROVIDE INFORMATION TO YOU THAT WOULD BE USED IN THE  
11:04AM 8 COURSE OF THE WORK AT THERANOS; RIGHT?  
11:04AM 9 A. YES.  
11:04AM 10 Q. AND THAT SOMETIMES IT WOULD HAVE INFORMATION ABOUT THE  
11:04AM 11 STATUS OF ASSAYS AND THINGS LIKE THAT?  
11:04AM 12 A. YES.  
11:04AM 13 Q. AND THAT YOU UNDERSTOOD THAT WAS NECESSARY TO TAKE FURTHER  
11:04AM 14 ACTION IF APPROPRIATE; RIGHT?  
11:04AM 15 A. YES.  
11:04AM 16 Q. AND THAT WHEN THAT HAPPENED, THERE WOULD BE A NEED TO HAVE  
11:04AM 17 THE INFORMATION BE ACCURATE SO THE ACTION COULD BE BASED ON  
11:05AM 18 ACCURATE INFORMATION; CORRECT?  
11:05AM 19 A. YES.  
11:05AM 20 Q. AND THERANOS HAD A SYSTEM OF STORING EMAILS SO IF SOMEONE  
11:05AM 21 NEEDED TO REFER TO THEM LATER, THAT COULD HAPPEN; RIGHT?  
11:05AM 22 A. YES, I BELIEVE SO.  
11:05AM 23 Q. AND IF YOU LOOK AT 7314, EVEN THOUGH YOU'RE NOT ON IT,  
11:05AM 24 THIS IS ONE OF THOSE EMAILS WHERE DR. YOUNG IS TRANSMITTING  
11:05AM 25 INFORMATION ABOUT THE STATUS OF CERTAIN ASSAYS PRIOR TO THE

11:05AM 1 LAUNCH OF WALGREENS; RIGHT?

11:05AM 2 A. YES, IT APPEARS SO.

11:05AM 3 MR. COOPERSMITH: YOUR HONOR, WE OFFER 7314

11:05AM 4 AUTHENTIC PURSUANT TO THE PARTIES' STIPULATION, ON BATES

11:05AM 5 NUMBERS, AND IT'S A BUSINESS RECORD.

11:05AM 6 MR. BOSTIC: HEARSAY, YOUR HONOR.

11:05AM 7 THE COURT: ARE YOU INTENDING TO INCLUDE THE

11:05AM 8 ATTACHMENT?

11:05AM 9 MR. COOPERSMITH: I DON'T NEED THE ATTACHMENT,

11:05AM 10 YOUR HONOR. IT'S REALLY JUST THE TWO PAGE EMAIL.

11:05AM 11 THE COURT: ALL RIGHT.

11:05AM 12 MR. BOSTIC: SAME OBJECTION, YOUR HONOR. HEARSAY

11:05AM 13 GIVEN THAT THIS WITNESS IS NOT ON THE --

11:05AM 14 THE COURT: IS THIS BEING OFFERED AS A BUSINESS

11:06AM 15 RECORD?

11:06AM 16 MR. COOPERSMITH: YES, YOUR HONOR.

11:06AM 17 THE COURT: I'LL ADMIT IT AS A BUSINESS RECORD UNDER

11:06AM 18 803(6). THE FOUNDATION HAS BEEN LAID, AND IT MAY BE PUBLISHED.

11:06AM 19 NOT THE ATTACHMENT.

11:06AM 20 (DEFENDANT'S EXHIBIT 7314 WAS RECEIVED IN EVIDENCE.)

11:06AM 21 MR. COOPERSMITH: YES, YOUR HONOR.

11:06AM 22 MR. ALLEN, JUST THE EMAIL ITSELF AND NOT THE ATTACHMENT.

11:06AM 23 Q. OKAY. LOOKING AT THE EMAIL, IS EXHIBIT 7314, YOU SEE THIS

11:06AM 24 IS AN EMAIL FROM DR. YOUNG AND TO MS. HOLMES AND MR. BALWANI?

11:06AM 25 A. YES.

11:06AM 1 Q. AND IT'S DATED AUGUST 19TH, 2013?

11:06AM 2 A. YES.

11:06AM 3 Q. AND THE SUBJECT IS TEST LAUNCH LIST.

11:06AM 4 DO YOU SEE THAT?

11:06AM 5 A. YES.

11:06AM 6 Q. OKAY. AND IT SAYS, "THE CURRENT LAUNCH LIST COVERS 200

11:06AM 7 TESTS, IN BOTH BLOOD AND URINE SAMPLES."

11:06AM 8 A. YES.

11:06AM 9 Q. "THE COLLECTION OF THESE REPORTABLES COVERS MORE THAN

11:06AM 10 97 PERCENT OF TEST FREQUENCY FOR THESE TWO MATRICES."

11:06AM 11 DO YOU SEE THAT?

11:06AM 12 A. YES.

11:06AM 13 Q. AND THEN IT SAYS, "BLOOD TESTS FOR LAUNCH INCLUDE GENERAL

11:06AM 14 CHEMISTRY, ELISA, AND CYTOMETRY."

11:07AM 15 A. YES.

11:07AM 16 Q. AND THEN IT DESCRIBES A TOTAL OF 158 TESTS/REPORTABLES"?

11:07AM 17 A. YES.

11:07AM 18 Q. AND THEN ON -- GOING DOWN A FEW MORE BULLETS DOWN, IT

11:07AM 19 SAYS, "92 ARE ELISA."

11:07AM 20 A. YES.

11:07AM 21 Q. AND THOSE ARE THE IMMUNOASSAYS?

11:07AM 22 A. YES.

11:07AM 23 Q. AND THEN IT SAYS 62 ON EDISON?

11:07AM 24 A. YES.

11:07AM 25 Q. AND THEN 30 ON ADVIA WITH SIEMENS CHEMISTRY; RIGHT?

11:07AM 1 A. YES.

11:07AM 2 Q. AND STICKING TO THE 62 ON EDISON NUMBER, WHEN THERANOS

11:07AM 3 LAUNCHED WITH WALGREENS, THERE WERE NOT 62 ASSAYS ON EDISON

11:07AM 4 ACTUALLY PUT IN OPERATION; RIGHT?

11:07AM 5 A. CAN YOU JUST REMIND ME OF THE DATE OF THIS EMAIL?

11:07AM 6 Q. SURE. IT'S AUGUST 19TH, 2013.

11:07AM 7 A. OH, UM -- YEAH, NO. MY RECOLLECTION IS IT WAS JUST ONE OR

11:07AM 8 TWO THAT WERE VALIDATED ON THE EDISON AT THAT TIME.

11:07AM 9 Q. AT THAT TIME?

11:07AM 10 A. CORRECT.

11:07AM 11 Q. AND THEN EVEN GOING FORWARD DURING THE REST OF YOUR TIME

11:08AM 12 AT THERANOS, ULTIMATELY THERANOS I THINK PUT A TOTAL OF ABOUT

11:08AM 13 12 ON EDISONS; IS THAT RIGHT?

11:08AM 14 A. IT SOUNDS ABOUT RIGHT.

11:08AM 15 Q. OKAY. AND NOT 62; RIGHT?

11:08AM 16 A. NO.

11:08AM 17 Q. BUT DR. YOUNG SAYS HERE THAT 62 ON EDISON IS AT LEAST PART

11:08AM 18 OF THE LAUNCH LIST AT THIS TIME AS FAR AS THIS EMAIL IS

11:08AM 19 CONCERNED?

11:08AM 20 A. YES, THAT'S WHAT HE'S REPRESENTING TO MR. BALWANI AND

11:08AM 21 MS. HOLMES.

11:08AM 22 Q. YES. THANK YOU.

11:08AM 23 A. YES.

11:08AM 24 Q. AND, AND I THINK YOU TALKED ABOUT THIS IN YOUR DIRECT

11:08AM 25 EXAMINATION WHEN MR. BOSTIC WAS QUESTIONING YOU, BUT AN EDISON

11:08AM 1 DEVICE, IT CAN RUN A SAMPLE, BUT IT CAN'T RUN, YOU KNOW,  
11:08AM 2 MULTIPLE PATIENT SAMPLES AT ONCE; RIGHT?  
11:08AM 3 A. NO, IT CANNOT.  
11:08AM 4 Q. RIGHT. BUT A SIEMENS ADVIA CAN RUN MULTIPLE PATIENT  
11:08AM 5 SAMPLES AT ONCE; RIGHT?  
11:08AM 6 A. NO, IT CANNOT.  
11:08AM 7 Q. OKAY. IT CAN'T DO THAT EITHER?  
11:08AM 8 A. NO.  
11:08AM 9 Q. BUT IN TERMS OF, LIKE, TAKING AN HOUR OF TIME, A  
11:08AM 10 SIEMENS ADVIA CAN RUN MANY MORE SAMPLES IN AN HOUR THAN A  
11:09AM 11 THERANOS MACHINE COULD?  
11:09AM 12 A. CORRECT.  
11:09AM 13 Q. AND THAT'S WHAT A SIEMENS ADVIA OR OTHER COMMERCIAL  
11:09AM 14 EQUIPMENT LIKE THAT IS DESIGNED TO DO; RIGHT?  
11:09AM 15 A. YES.  
11:09AM 16 Q. AND IT'S FOR HIGH VOLUME OPERATION; RIGHT?  
11:09AM 17 A. CORRECT.  
11:09AM 18 Q. AND YOU UNDERSTAND THAT THE EDISON, AS DESIGNED, WAS NOT  
11:09AM 19 REALLY DESIGNED TO RUN IN A CENTRAL LAB THAT WAS GETTING  
11:09AM 20 HUNDREDS OF THOUSANDS OF SAMPLES A DAY; RIGHT?  
11:09AM 21 A. I WOULD BE SPECULATING ON THE INTENT OF THAT INSTRUMENT.  
11:09AM 22 Q. OKAY. BUT YOU, IN ANY EVENT, UNDERSTOOD THAT THE SIEMENS  
11:09AM 23 DEVICE OR OTHER COMMERCIAL DEVICES THAT WERE MEANT FOR HIGH  
11:09AM 24 VOLUME COULD RUN MANY MORE SAMPLES PER HOUR; RIGHT?  
11:09AM 25 A. THAT WAS THE REALITY, YEAH.



11:09AM 1 Q. AND SOMETIMES THAT TOPIC IS REFERRED TO AS HIGH  
11:09AM 2 THROUGHPUT; RIGHT?

11:09AM 3 A. YES, YES.

11:09AM 4 Q. AND IF YOU'RE COLLECTING A LOT OF SAMPLES IN VARIOUS  
11:09AM 5 LOCATIONS SUCH AS WALGREENS STORES, IT MIGHT BE ADVANTAGEOUS TO  
11:09AM 6 HAVE A HIGH THROUGHPUT WAY OF RUNNING THE SAMPLES; RIGHT?

11:09AM 7 A. THERE'S DIFFERENT MODELS DEPENDING ON SAMPLE VOLUME,  
11:10AM 8 CLINICAL SETTING.

11:10AM 9 Q. OKAY. BUT IN ANY EVENT, IF THERANOS WAS COLLECTING  
11:10AM 10 SAMPLES AT WALGREENS STORES AND SHIPPING THOSE ALL TO A CENTRAL  
11:10AM 11 LABORATORY IT WAS RUNNING, IT COULD RUN THOSE FASTER ON SIEMENS  
11:10AM 12 MACHINES COMPARED TO AN EDISON DEVICE; RIGHT?

11:10AM 13 A. I'M NOT SURE WHY YOU'RE COMPARING THE SIEMENS DEVICE TO  
11:10AM 14 THE EDISON, BECAUSE THE EDISON IS IMMUNOASSAY AND THE IMMULITE  
11:10AM 15 WAS THE IMMUNOASSAY, AND SO THAT'S MORE OF AN APPLES TO APPLES  
11:10AM 16 COMPARISON.

11:10AM 17 Q. OKAY. FAIR ENOUGH.

11:10AM 18 SO LET'S TALK ABOUT THE IMMULITE IN THIS CASE; RIGHT?

11:10AM 19 A. YEAH.

11:10AM 20 Q. THE IMMULITE COULD ALSO RUN MORE SAMPLES PER HOUR THAN THE  
11:10AM 21 EDISON DEVICE?

11:10AM 22 A. YES.

11:10AM 23 Q. OKAY. AND THAT IF THERANOS WAS COLLECTING SAMPLES FROM  
11:10AM 24 WALGREENS STORES AND SHIPPING THEM TO A CENTRAL LABORATORY, IT  
11:10AM 25 COULD RUN MANY MORE OF THOSE SAMPLES PER HOUR ON AN IMMULITE

11:11AM 1 COMPARED TO AN EDISON?

11:11AM 2 A. CORRECT.

11:11AM 3 Q. OKAY. AND THAT'S TRUE IF YOU WERE RUNNING A MODIFIED

11:11AM 4 IMMULITE; RIGHT?

11:11AM 5 A. CORRECT.

11:11AM 6 Q. SO THE SAME THROUGHPUT ISSUE, JUST DIFFERENT SAMPLE SIZE;

11:11AM 7 RIGHT?

11:11AM 8 A. SO YOU'RE ASKING IF THE MODIFIED IMMULITE HAS THE SAME

11:11AM 9 THROUGHPUT CAPABILITY AS AN UNMODIFIED IMMULITE ASSAY?

11:11AM 10 Q. RIGHT. AND IT DOES; RIGHT?

11:11AM 11 A. I DON'T KNOW.

11:11AM 12 Q. BUT IN ANY EVENT, THE IMMULITE --

11:11AM 13 A. I MEAN, I WOULD SAY NO BECAUSE YOU'VE GOT TO DILUTE THE

11:11AM 14 SAMPLE FIRST TO RUN IT --

11:11AM 15 Q. OKAY.

11:11AM 16 A. -- MODIFIED ON THE IMMULITE. SO I WOULD SAY NO. YEAH, IT

11:11AM 17 TAKES LONGER.

11:11AM 18 Q. BECAUSE YOU HAVE THAT STEP OF PREDILUTION?

11:11AM 19 A. YEAH, YEAH.

11:11AM 20 Q. AS OPPOSED TO WHEN YOU'RE RUNNING IT MODIFIED, WHATEVER

11:11AM 21 DILUTION IT WAS DOING IT WOULD BE INTERNAL TO THE MACHINE?

11:11AM 22 A. I DON'T KNOW ABOUT INTERNAL DILUTIONS IN THE IMMULITES.

11:11AM 23 Q. OKAY. WE MAY LOOK AT THAT AT SOME POINT.

11:11AM 24 A. OKAY.

11:11AM 25 Q. BUT IN ANY EVENT, THE MODIFIED IMMULITE COULD RUN MORE

11:12AM 1 SAMPLES PER HOUR COMPARED TO AN EDISON; RIGHT?

11:12AM 2 A. YES.

11:12AM 3 Q. OKAY. AND YOU WERE, I TAKE IT, NOT INVOLVED IN THE

11:12AM 4 BUSINESS OPERATIONS OF THERANOS?

11:12AM 5 A. NOT AT ALL, NO.

11:12AM 6 Q. OR IN THE DISCUSSIONS THAT THERANOS HAD WITH WALGREENS?

11:12AM 7 A. NO, NOT AT ALL.

11:12AM 8 Q. OR ABOUT WHAT MADE SENSE FOR, YOU KNOW, DOING BUSINESS

11:12AM 9 WITH WALGREENS AND COLLECTING SAMPLES?

11:12AM 10 A. NO. THAT WASN'T MY JOB.

11:12AM 11 Q. AND YOU DON'T KNOW ANYTHING ABOUT THE CONTRACTS BETWEEN

11:12AM 12 THERANOS AND WALGREENS?

11:12AM 13 A. NO, DEFINITELY NOT, NO.

11:12AM 14 Q. AND WHAT THOSE SAMPLES WOULD SAY ABOUT HOW SAMPLES ARE

11:12AM 15 COLLECTED?

11:12AM 16 A. NO.

11:12AM 17 Q. OKAY. LEADING UP TO THE LAUNCH, THERE WERE QUITE A FEW

11:12AM 18 TESTS THAT HAD TO BE ACCOMPLISHED IN ORDER TO ACTUALLY GO LIVE

11:12AM 19 WITH WALGREENS, SO TO SPEAK; RIGHT?

11:13AM 20 A. YES.

11:13AM 21 Q. AND WE TALKED ABOUT ASSAY VALIDATION; RIGHT?

11:13AM 22 A. YES.

11:13AM 23 Q. AND THERE WERE ALSO A LOT OF LOGISTICAL TASKS THAT HAD TO

11:13AM 24 BE COMPLETED; CORRECT?

11:13AM 25 A. YES.

11:13AM 1 Q. AND THERE HAD TO BE A FUNCTIONING LABORATORY INFORMATION  
11:13AM 2 SYSTEM?  
11:13AM 3 A. CORRECT.  
11:13AM 4 Q. IN ORDER TO START THE PROGRAM WITH WALGREENS?  
11:13AM 5 A. CORRECT.  
11:13AM 6 Q. OKAY. LET'S TAKE A LOOK AT EXHIBIT 1049, WHICH I BELIEVE  
11:13AM 7 IS ALREADY IN EVIDENCE FROM YOUR DIRECT EXAMINATION.  
11:13AM 8 EXHIBIT 1049 IS AN EMAIL FROM AUGUST 29TH, 2013.  
11:14AM 9 DO YOU SEE THAT?  
11:14AM 10 A. YES.  
11:14AM 11 Q. AND THEN IN THE BOTTOM YOU ARE INFORMING MS. HOLMES AND  
11:14AM 12 DR. YOUNG THAT YOU HAVE SOME MEDICAL AND OPERATIONAL CONCERNS  
11:14AM 13 ABOUT OUR READINESS FOR SEPTEMBER 9TH.  
11:14AM 14 DO YOU SEE THAT?  
11:14AM 15 A. YES.  
11:14AM 16 Q. AND YOU HAVE TWO CATEGORIES OF CONCERN. THE FIRST IS  
11:14AM 17 MEDICAL.  
11:14AM 18 DO YOU SEE THAT?  
11:14AM 19 A. YES.  
11:14AM 20 Q. AND THE FIRST HEADING UNDER MEDICAL IS GLUCOSE?  
11:14AM 21 A. YES.  
11:14AM 22 Q. AND YOU DISCUSS SIGNIFICANT NEGATIVE BIAS; RIGHT?  
11:14AM 23 A. YES.  
11:14AM 24 Q. OKAY. IF YOU WOULD GO TO THE NEXT PAGE AND GO DOWN THE  
11:14AM 25 EMAIL.

11:14AM 1 THEN YOUR SECOND HEADING FOR MEDICAL CONCERNS IS SODIUM?

11:14AM 2 A. YES.

11:14AM 3 Q. AND THEN THE OTHER SET OF CONCERNS YOU HAD TO DO WITH WERE

11:14AM 4 OPERATIONAL CONCERNS; RIGHT?

11:14AM 5 A. YES.

11:14AM 6 Q. AND THEN IT HAD TO DO WITH TRAINING ON THE NEW PROTOCOLS

11:14AM 7 AND ISSUES WITH OTHER THINGS; RIGHT?

11:14AM 8 A. YES.

11:14AM 9 Q. AND THEN IF YOU GO TO THE TOP OF THE FIRST PAGE OR THE TOP

11:15AM 10 EMAIL, AND THEN YOU SEE MS. HOLMES FORWARDS THAT TO

11:15AM 11 MR. BALWANI?

11:15AM 12 A. YES.

11:15AM 13 Q. AND THAT MR. BALWANI WRITES AT THE TOP, "I ASSUME WE CAN

11:15AM 14 USE SIEMENS CHEMISTRY FOR GLUCOSE AND SODIUM? IF YES THEN WE

11:15AM 15 SHOULD."

11:15AM 16 RIGHT?

11:15AM 17 A. IS THAT WHAT YOU'RE ASKING ME IF THAT'S WHAT THE TEXT ON

11:15AM 18 THE SCREEN SAYS?

11:15AM 19 Q. THAT'S ALL I'M ASKING YOU FOR THE MOMENT.

11:15AM 20 A. YES.

11:15AM 21 Q. OKAY.

11:15AM 22 A. YES.

11:15AM 23 Q. AND IT HAS ANOTHER DISCUSSION ABOUT OPERATIONAL, "WE

11:15AM 24 SHOULD TELL HIM WE WILL LIMIT NUMBER OF SAMPLES."

11:15AM 25 AND IF THERE WERE FEWER SAMPLES COMING IN, IT WOULD BE

11:15AM 1 EASIER TO DEAL WITH LOGISTICS AND OPERATIONS IF YOU HAD  
11:15AM 2 RELATIVELY FEW SAMPLES COMING IN AS OPPOSED TO MANY SAMPLES?

11:15AM 3 A. TRUE.

11:15AM 4 Q. OKAY. BUT ON THE CHEMISTRY ISSUE, MR. BALWANI SAYS, "I  
11:15AM 5 ASSUME WE CAN USE SIEMENS CHEMISTRY FOR GLUCOSE AND SODIUM?"  
11:15AM 6 RIGHT?

11:15AM 7 A. YES.

11:15AM 8 Q. AND THAT WOULD BE LIKE USING THE FDA APPROVED SIEMENS  
11:16AM 9 MACHINE AS OPPOSED TO ANYTHING THAT THERANOS DEVELOPED; RIGHT?

11:16AM 10 A. WELL, THE SIEMENS MACHINE WAS USED IN BOTH CASES, SO I'M  
11:16AM 11 NOT SURE WHAT MR. BALWANI MEANS BY THIS.

11:16AM 12 Q. RIGHT.

11:16AM 13 BUT YOU UNDERSTAND SIEMENS CHEMISTRY REFERS TO THE SIEMENS  
11:16AM 14 CHEMISTRY AS OPPOSED TO THE THERANOS ASSAY; RIGHT?

11:16AM 15 A. SO SOME OF THE THERANOS TESTS USED SIEMENS CHEMISTRY AND  
11:16AM 16 SOME OF THEM USED THERANOS DEVELOPED CHEMISTRIES.

11:16AM 17 Q. OKAY. BUT MR. BALWANI WAS -- WELL, YOU UNDERSTAND THAT IF  
11:16AM 18 MR. BALWANI WAS COMMUNICATING THAT UNMODIFIED PREDICATE SHOULD  
11:16AM 19 BE USED, HE WAS ACTUALLY AGREEING THAT IF YOU HAD CONCERNS  
11:16AM 20 ABOUT GLUCOSE AND SODIUM ON THERANOS DEVICES, THAT SHOULDN'T BE  
11:16AM 21 IMPLEMENTED UNTIL THOSE CONCERNS WERE RESOLVED; RIGHT?

11:16AM 22 A. I CAN'T SPECULATE ON MR. BALWANI'S INTENT OR MEANING HERE.  
11:17AM 23 IT'S JUST VERY UNCLEAR TO ME WHAT HE MEANS BY THIS, I'M SORRY.

11:17AM 24 Q. OKAY. DR. ROSENDORFF, IN FACT, YOU EXPRESSED THESE  
11:17AM 25 CONCERNS ABOUT THESE TWO ASSAYS, SODIUM AND GLUCOSE, ON

11:17AM 1 AUGUST 29TH, PRIOR TO THE WALGREENS LAUNCH; RIGHT?

11:17AM 2 A. IN THIS EMAIL YOU MEAN?

11:17AM 3 Q. YES.

11:17AM 4 A. YES, YES.

11:17AM 5 Q. OKAY. AND YOU WOULD NOT HAVE WANTED THOSE ASSAYS TO GO

11:17AM 6 ONLINE ON THERANOS ASSAYS IF YOU WERE NOT SATISFIED THAT THEY

11:17AM 7 WERE APPROPRIATE; RIGHT?

11:17AM 8 A. CORRECT.

11:17AM 9 Q. AND IF YOU COULD TAKE A LOOK AT EXHIBIT 9352.

11:17AM 10 9352 IS IN EVIDENCE AND IT'S A VALIDATION REPORT FOR

11:18AM 11 MODIFIED SIEMENS ASSAY OF SODIUM.

11:18AM 12 DO YOU SEE THAT?

11:18AM 13 A. YES.

11:18AM 14 Q. AND THAT'S SIGNED BY YOU ON MARCH 24TH, 2014; RIGHT?

11:18AM 15 A. SOMETHING DOESN'T MAKE SENSE HERE BECAUSE AT THE DATE AT

11:18AM 16 THE TOP IS SEPTEMBER 26TH, 2013, AND MY SIGNATURE SAYS

11:18AM 17 MARCH 24, 2014.

11:18AM 18 Q. WELL, YOU WROTE THAT DATE RIGHT NEXT TO YOUR SIGNATURE

11:18AM 19 BLOCK; RIGHT?

11:18AM 20 A. YES.

11:18AM 21 Q. AND SO YOU DATED THE DOCUMENT MARCH 24TH, 2014; RIGHT?

11:18AM 22 A. IT APPEARS THAT'S WHEN IT WAS PRESENTED TO ME BUT --

11:18AM 23 Q. SO EVEN IF THE DOCUMENT WAS PREPARED BY SOMEONE ON

11:18AM 24 SEPTEMBER 26TH, 2014, YOU DIDN'T SIGN IT UNTIL MARCH 24TH,

11:18AM 25 2014; RIGHT?

11:18AM 1 DR. ROSENDORFF, EVEN IF THE DOCUMENT WAS PREPARED AT THE  
11:18AM 2 END OF SEPTEMBER 2013, YOU DIDN'T SIGN IT UNTIL MARCH 24TH,  
11:19AM 3 2014; RIGHT?

11:19AM 4 A. WELL, THAT'S WHAT IT LOOKS LIKE.

11:19AM 5 BUT AS I SAID BEFORE, THERE WAS NO DOCUMENT CONTROL AT  
11:19AM 6 THERANOS. SO THAT DATE OF SEPTEMBER 26TH, 2013 IS -- REALLY,  
11:19AM 7 REALLY CAN'T BE TRUSTED. WE KNOW THESE DOCUMENTS OR REVISIONS  
11:19AM 8 WERE PROTECTED OR WERE NOT RECORDED IN A CONTROLLED WAY IN A  
11:19AM 9 SOFTWARE SYSTEM.

11:19AM 10 GO AHEAD, SORRY.

11:19AM 11 Q. THAT'S OKAY.

11:19AM 12 I HEAR YOU SAYING THAT. BUT THE DOCUMENT CONTROL ISSUES  
11:19AM 13 YOU'RE NOW REFERRING TO, THAT DIDN'T AFFECT THE DATE THAT YOU  
11:19AM 14 PUT NEXT TO YOUR SIGNATURE, DOES IT?

11:19AM 15 A. IT AFFECTS THE RELEVANCE OF THAT DATE VERSUS WHAT IS AT  
11:19AM 16 THE TOP OF THE DOCUMENT.

11:19AM 17 Q. OKAY.

11:19AM 18 A. OR EVEN THE TITLE OF THE DOCUMENT. I MEAN, YES, THAT'S MY  
11:19AM 19 HANDWRITING, AND THAT'S THE DATE I PUT DOWN.

11:19AM 20 BUT WHAT AM I CERTIFYING TO THERE?

11:19AM 21 Q. IT SAYS APPROVER.

11:20AM 22 DO YOU SEE THAT?

11:20AM 23 A. YES.

11:20AM 24 Q. AND THEN YOU SIGNED YOUR SIGNATURE OVER THE  
11:20AM 25 ADAM ROSENDORFF, M.D.



11:20AM 1 DO YOU SEE THAT?

11:20AM 2 A. YES.

11:20AM 3 Q. AND THEN IT HAS DATE, AND IT HAS THE TITLE LABORATORY  
11:20AM 4 DIRECTOR; RIGHT?

11:20AM 5 A. YES.

11:20AM 6 Q. AND THEN YOU DATED IT MARCH 24TH, '14; RIGHT?

11:20AM 7 A. BUT HOW DOES THAT RELATE TO THE REST OF THIS EXHIBIT, SIR?

11:20AM 8 Q. OKAY. I DON'T INTEND TO ANSWER YOUR QUESTION, BUT I'M  
11:20AM 9 ASKING ANOTHER QUESTION TO SEE IF WE CAN CLARIFY THIS.

11:20AM 10 SO, DR. ROSENDORFF, MARCH 24TH, 2014, IS MANY MONTHS AFTER  
11:20AM 11 THE PREVIOUS EXHIBIT WE SAW AND WE EXPRESSED CONCERNS ABOUT  
11:20AM 12 SODIUM; RIGHT?

11:20AM 13 A. CORRECT.

11:20AM 14 Q. AND, IN FACT, IT'S GOING FROM AUGUST ALL OF THE WAY UNTIL  
11:20AM 15 MARCH. SO IT'S ABOUT SEVEN MONTHS; RIGHT?

11:20AM 16 A. YES.

11:20AM 17 Q. TURNING TO THE OTHER CONCERN YOU HAD --

11:20AM 18 A. ARE YOU ASSERTING THAT MY SIGNATURE APPLIES TO THIS  
11:21AM 19 DOCUMENT?

11:21AM 20 Q. SIR, YOU PUT YOUR SIGNATURE ON VALIDATION REPORTS?

11:21AM 21 A. CORRECT.

11:21AM 22 Q. THIS IS ONE OF THEM?

11:21AM 23 A. WELL, AS I'VE SAID, THERE'S NO, THERE WAS NO DOCUMENT  
11:21AM 24 CONTROL AT THERANOS, SO I CAN'T VOUCH FOR THE FACT THAT THE  
11:21AM 25 SIGNATURE RELATES TO THIS DOCUMENT.

11:21AM 1 Q. OKAY. SO -- WELL, LET'S EXPLORE THAT SINCE YOU SAY THAT.  
11:21AM 2 IF YOU LOOK AT THE BODY OF THE DOCUMENT, YOU SEE -- AND  
11:21AM 3 WE'RE TALKING ABOUT EXHIBIT 9352, AND IF YOU GO TO PAGE 2 OF  
11:21AM 4 THE DOCUMENT --

11:21AM 5 A. YES.

11:21AM 6 Q. -- YOU SEE THERE'S THE SODIUM PLASMA ASSAY?

11:21AM 7 A. YES.

11:21AM 8 Q. AND THEN THERE IS DIFFERENT SECTIONS OF THE DOCUMENT THAT  
11:21AM 9 ARE LISTED THERE?

11:21AM 10 A. YES.

11:21AM 11 Q. AND THOSE ARE THE VALIDATION REQUIREMENTS THAT HAVE TO BE  
11:21AM 12 DONE FOR AN ASSAY; RIGHT?

11:21AM 13 A. YES.

11:21AM 14 Q. AND THEN THE REST OF THE DOCUMENT ACTUALLY GOES THROUGH  
11:21AM 15 THE PAGES OF THE DOCUMENT TO GO THROUGH THE DATA AND WHAT  
11:22AM 16 HAPPENED WITH THE VALIDATION; RIGHT?

11:22AM 17 A. YES.

11:22AM 18 Q. AND YOU PUT YOUR SIGNATURE ON THE COVER PAGE ON  
11:22AM 19 MARCH 24TH, 2014; RIGHT?

11:22AM 20 A. IT APPEARS SO.

11:22AM 21 Q. OKAY. AND YOU DON'T HAVE ANY EVIDENCE AS YOU SIT HERE  
11:22AM 22 TODAY THAT THIS DOCUMENTS IS NOT WHAT YOU SIGNED; CORRECT?

11:22AM 23 A. I WOULD NOT HAVE SIGNED A DOCUMENT IN MARCH OF 2014 IF THE  
11:22AM 24 ASSAY HAD GONE LIVE IN EARLY 2013. I WOULD NOT HAVE DONE THAT.

11:22AM 25 Q. THANK YOU, DR. ROSENDORFF.

11:22AM 1 BUT YOU WOULD HAVE SIGNED IT IF IT DIDN'T GO LIVE; RIGHT?

11:22AM 2 A. CORRECT.

11:22AM 3 Q. RIGHT. SO IF THE ASSAY DIDN'T GO LIVE IN 2013, YOU COULD

11:22AM 4 HAVE SIGNED IT IN MARCH OF 2014 WHEN YOU DEEMED IT APPROPRIATE

11:22AM 5 TO DO SO; RIGHT?

11:22AM 6 A. CORRECT.

11:22AM 7 Q. OKAY. LET'S GO TO EXHIBIT 9184.

11:23AM 8 AND CAN YOU SEE IT ON YOUR SCREEN, DR. ROSENDORFF?

11:23AM 9 A. YES.

11:23AM 10 Q. AND THIS IS NOT IN EVIDENCE. IT'S TITLED VALIDATION OF

11:23AM 11 MODIFIED THERANOS GLUCOSE ASSAY.

11:23AM 12 DO YOU SEE THAT?

11:23AM 13 A. YES.

11:23AM 14 Q. AND, IN FACT, YOUR SIGNATURE DOESN'T APPEAR ON THIS

11:23AM 15 DOCUMENT AT ALL; RIGHT?

11:23AM 16 A. IT DOES NOT.

11:23AM 17 Q. AND YOU HAVE NO RECOLLECTION OF EVER SIGNING A GLUCOSE

11:23AM 18 VALIDATION REPORT AT THERANOS; RIGHT?

11:23AM 19 A. I BELIEVE I DID ACTUALLY.

11:23AM 20 Q. OKAY. WELL, IF THAT EXISTS, I'M SURE WE'LL SEE THAT AT

11:23AM 21 SOME POINT.

11:23AM 22 A. OKAY.

11:23AM 23 Q. OKAY. LET'S GO TO EXHIBIT 7324. IT'S ALWAYS THE LAST

11:24AM 24 PLACE YOU LOOK.

11:24AM 25 OKAY. TURNING TO EXHIBIT 7324. DO YOU SEE THIS IS AN

11:24AM 1 EMAIL STRING AMONG YOU, DR. YOUNG, AND DR. GANGAKHEDKAR?

11:24AM 2 DO YOU SEE THAT?

11:24AM 3 A. I'M SORRY. THERE'S NOTHING THAT IS APPEARING ON MY SCREEN

11:24AM 4 RIGHT NOW.

11:24AM 5 OH THERE IT IS. THERE IT IS. UH-HUH.

11:24AM 6 Q. GREAT. DO YOU SEE THE EMAIL HEADER THERE?

11:25AM 7 A. YES.

11:25AM 8 Q. AND THEN THIS IS AROUND SEPTEMBER 7TH, 2013?

11:25AM 9 A. YES.

11:25AM 10 Q. AND IT RELATES TO CERTAIN ASSAYS THAT WERE -- THE COMPANY

11:25AM 11 WAS WORKING ON IN CONNECTION WITH THE WALGREENS LAUNCH?

11:25AM 12 A. YES.

11:25AM 13 Q. AND THIS IS ANOTHER ONE OF THOSE EMAILS THAT WAS

11:25AM 14 TRANSMITTED AMONG THERANOS PERSONNEL TO DO THE WORK THAT WAS

11:25AM 15 GOING ON AT THE TIME?

11:25AM 16 A. YES.

11:25AM 17 Q. AND THE PURPOSE OF THIS WAS TO TRANSMIT INFORMATION

11:25AM 18 ACCURATELY SO THAT PEOPLE COULD TAKE APPROPRIATE ACTION?

11:25AM 19 A. I'M SORRY TO BE A PAIN, BUT IT JUST SEEMS LIKE EVERY

11:25AM 20 EXHIBIT THAT GETS SHOWN, YOU ASK THE SAME LIST OF QUESTIONS.

11:25AM 21 I DON'T KNOW IF THAT'S STANDARD PROCEDURE IN THESE KINDS

11:25AM 22 OF CASES, BUT IT JUST SEEMS REALLY REPETITIVE.

11:25AM 23 THE COURT: SIR, THERE ARE RULES OF EVIDENCE THAT

11:25AM 24 HAVE TO BE FOLLOWED.

11:25AM 25 THE WITNESS: OKAY.

11:25AM 1 THE COURT: SO WE APPRECIATE YOUR PATIENCE.

11:26AM 2 THE WITNESS: OKAY. THANK YOU, YOUR HONOR.

11:26AM 3 BY MR. COOPERSMITH:

11:26AM 4 Q. YEAH. I'M SORRY, I'M NOT TRYING TO WASTE YOUR TIME,  
11:26AM 5 DR. ROSENDORFF. BUT AS JUDGE DAVILA SAID, SOMETIMES THIS IS  
11:26AM 6 REQUIRED.

11:26AM 7 BUT YOU KNOW WHAT, I'M GOING TO OFFER 7324.

11:26AM 8 MR. BOSTIC: NO OBJECTION.

11:26AM 9 THE COURT: IT'S ADMITTED. IT MAY BE PUBLISHED.

11:26AM 10 (DEFENDANT'S EXHIBIT 7324 WAS RECEIVED IN EVIDENCE.)

11:26AM 11 BY MR. COOPERSMITH:

11:26AM 12 Q. OKAY. SO LET'S GO TO PAGE 3 OF THE DOCUMENT, AND THAT'S  
11:26AM 13 AN EMAIL FROM DR. SIVARAMAN.

11:26AM 14 DO YOU SEE THAT AT THE BOTTOM?

11:26AM 15 A. YES.

11:26AM 16 Q. AND IT'S AN EMAIL DATED SEPTEMBER 7TH, 2013, TO YOU,  
11:26AM 17 DR. YOUNG, COPIED TO ELIZABETH HOLMES AND SUREKHA.

11:26AM 18 DO YOU SEE THAT?

11:26AM 19 A. YES.

11:26AM 20 Q. AND IT SAYS, "PLEASE FIND ATTACHED VALIDATION DATA SUMMARY  
11:26AM 21 FILES FOR TPSA, VITAMIN D, AND TSH."

11:26AM 22 DO YOU SEE THAT?

11:26AM 23 A. YES.

11:26AM 24 Q. AND THOSE WERE THREE OF THE ASSAYS THAT THERANOS WAS  
11:27AM 25 WORKING ON IN PREPARATION FOR THE WALGREENS LAUNCH?

11:27AM 1 A. YES.

11:27AM 2 Q. IF YOU GO UP THE CHAIN TO THE NEXT EMAIL, THIS IS AN EMAIL

11:27AM 3 FROM DANIEL YOUNG TO YOU AND OTHERS.

11:27AM 4 AND HE WRITES, "THANKS... REVIEWING THE DATA. MAYBE WE

11:27AM 5 CAN MEET AT 3:00 P.M. TOGETHER TO DISCUSS?"

11:27AM 6 RIGHT?

11:27AM 7 A. YES.

11:27AM 8 Q. AND IT HAS A TIMELINE OF WHAT DANIEL YOUNG THINKS SHOULD

11:27AM 9 HAPPEN TO CONTINUE WORKING ON THESE ASSAYS.

11:27AM 10 DO YOU SEE THAT?

11:27AM 11 A. YES.

11:27AM 12 Q. AND THEN ABOVE THAT THERE'S AN EMAIL FROM YOU, AND IT'S

11:27AM 13 FROM YOU TO DANIEL YOUNG, SHARADA SIVARAMAN, AGAIN COPIED TO

11:27AM 14 ELIZABETH HOLMES AND SUREKHA.

11:27AM 15 DO YOU SEE THAT?

11:27AM 16 A. YES.

11:27AM 17 Q. AND MR. BALWANI IS NOT ON THIS EMAIL; RIGHT?

11:27AM 18 A. NO.

11:27AM 19 Q. AND THEN IT SAYS, "SHARADA,

11:27AM 20 "THANKS -- THE DATA LOOKS GREAT."

11:27AM 21 DO YOU SEE THAT?

11:27AM 22 A. YES.

11:27AM 23 Q. AND THAT'S WHAT YOU TOLD DR. SIVARAMAN; RIGHT?

11:28AM 24 A. YES.

11:28AM 25 Q. AND IT SAYS, "THE ACCURACY/BIAS PLOTS COMPARING THE EDISON

11:28AM 1 3.5 WITH PREDICATE (VITAMIN D, TSH) ARE EXCELLENT LIKE THE  
11:28AM 2 CURRENT REFERENCE RANGES COULD EASILY BE ADJUSTED BASED ON THE  
11:28AM 3 REGRESSION FORMULA."

11:28AM 4 DO YOU SEE THAT?

11:28AM 5 A. YES.

11:28AM 6 Q. AND THEN IT GOES ON.

11:28AM 7 DO YOU SEE THAT?

11:28AM 8 A. YES.

11:28AM 9 Q. LET'S PUT THAT ASIDE.

11:28AM 10 NOW, LET'S TALK ABOUT THE LAUNCH ITSELF. IF YOU COULD  
11:28AM 11 REFER -- AND I GUESS WE COULD DO IT ON THE SCREEN -- TO  
11:28AM 12 EXHIBIT 28466.

11:28AM 13 MR. ALLEN, IF WE COULD SHOW DR. ROSENDORFF PAGE 3250 AT  
11:28AM 14 LINE 17.

11:29AM 15 DO YOU HAVE THAT IN FRONT OF YOU?

11:29AM 16 A. YES.

11:29AM 17 Q. OKAY. I JUST WANT TO MAKE SURE THAT WE'RE ALL CLEAR ON  
11:29AM 18 THE TESTIMONY HERE.

11:29AM 19 DO YOU REMEMBER ON WEDNESDAY MR. BOSTIC ASKED YOU A  
11:29AM 20 QUESTION ABOUT WHETHER THERE CAME A TIME IN 2013 WHEN THERANOS  
11:29AM 21 LAUNCHED ITS TESTING SERVICES TO THE GENERAL PUBLIC?

11:29AM 22 DO YOU SEE THAT?

11:29AM 23 A. YES.

11:29AM 24 Q. AND YOU RESPONDED YES, AND THAT IT WAS THE LAUNCH TO THE  
11:29AM 25 GENERAL PUBLIC IN EARLY SEPTEMBER, AROUND SEPTEMBER 9TH?

11:29AM 1 A. YES.

11:29AM 2 Q. OKAY. AND YOUR TESTIMONY ON WEDNESDAY THEN WAS THAT

11:29AM 3 SEPTEMBER 9TH WAS A LAUNCH TO THE, QUOTE, GENERAL PUBLIC?

11:29AM 4 A. YES.

11:29AM 5 Q. OKAY. LET'S TAKE A LOOK AT EXHIBIT 13880.

11:30AM 6 OKAY. DO YOU SEE THAT EXHIBIT 13880 IS AN EMAIL FROM

11:30AM 7 THERANOS HUMAN RESOURCES TO ALL THERANOS EMPLOYEES?

11:30AM 8 DO YOU SEE THAT?

11:30AM 9 A. YES.

11:30AM 10 Q. AND THAT WAS -- YOU WERE AN EMPLOYEE OF THERANOS AT THE

11:30AM 11 TIME; RIGHT?

11:30AM 12 A. CORRECT.

11:30AM 13 Q. AND SO YOU WERE INCLUDED ON EMAIL LISTS OF ALL THERANOS

11:30AM 14 EMPLOYEE AT THE TIME?

11:30AM 15 A. CORRECT.

11:30AM 16 Q. AND THIS EMAIL RELATES TO THE -- IT'S DATED

11:30AM 17 SEPTEMBER 11TH; CORRECT?

11:30AM 18 A. YES.

11:30AM 19 Q. OF 2013?

11:30AM 20 A. YES.

11:30AM 21 Q. AND IT RELATES TO THE INITIAL BLOOD TESTING THAT WAS GOING

11:31AM 22 ON AT THE PALO ALTO WALGREENS; RIGHT?

11:31AM 23 A. YES.

11:31AM 24 Q. OKAY.

11:31AM 25 YOUR HONOR, WE OFFER EXHIBIT 13880.



11:31AM 1 MR. BOSTIC: NO OBJECTION.

11:31AM 2 THE COURT: IT'S ADMITTED. IT MAY BE PUBLISHED.

11:31AM 3 (DEFENDANT'S EXHIBIT 13880 WAS RECEIVED IN EVIDENCE.)

11:31AM 4 BY MR. COOPERSMITH:

11:31AM 5 Q. OKAY. LET'S TAKE A LOOK AT IT.

11:31AM 6 IT SAYS, "ALL,

11:31AM 7 "AS MENTIONED IN OUR ALL EMPLOYEE MEETING, WE ARE NOW

11:31AM 8 OFFERING FREE SCREENINGS TO ALL THERANOS EMPLOYEES, FRIENDS AND

11:31AM 9 FAMILY."

11:31AM 10 DO YOU SEE THAT?

11:31AM 11 A. YES.

11:31AM 12 Q. AND IT SAYS, "WE HAVE AN INDEPENDENT PHYSICIAN,

11:31AM 13 DR. ARJALI JAIN" --

11:31AM 14 A. YES.

11:31AM 15 Q. -- "WHO WE ARE COLLABORATING WITH TO MAKE THESE SERVICES

11:31AM 16 AVAILABLE TO YOU. DR. JAIN RECEIVED HER M.D. FROM

11:31AM 17 JOHNS HOPKINS," AND IT GOES ON.

11:31AM 18 DO YOU SEE THAT?

11:31AM 19 A. YES.

11:31AM 20 Q. AND THEN IT GOES ON, "STARTING TODAY, ALL EMPLOYEES,

11:31AM 21 FRIENDS, AND FAMILY WILL BE ABLE TO GO TO OUR WELLNESS CENTER

11:32AM 22 AT DOWNTOWN PALO ALTO WALGREENS LOCATION AND RECEIVE A VARIETY

11:32AM 23 OF TESTS SO EVERYONE GETS TO SEE OUR FIRST STORE."

11:32AM 24 DO YOU SEE THAT?

11:32AM 25 A. YES.

11:32AM 1 Q. AND SO THIS BLOOD TESTING AS INITIALLY CONCEIVED WAS FOR  
11:32AM 2 EMPLOYEES, FRIENDS, AND FAMILY?  
11:32AM 3 A. CORRECT.  
11:32AM 4 Q. AND THEN IT GOES ON TO SAY, "THE FIRST PANEL WE ARE  
11:32AM 5 OFFERING IS A COMPLETE BLOOD COUNT WITH HBA1C TEST."  
11:32AM 6 DO YOU SEE THAT?  
11:32AM 7 A. YES.  
11:32AM 8 Q. AND HBA1C IS A TEST THAT IS DONE TO MONITOR DIABETES?  
11:32AM 9 A. CORRECT.  
11:32AM 10 Q. AND COMPLETE BLOOD COUNT IS A CYTOMETRY TEST?  
11:32AM 11 A. YES.  
11:32AM 12 Q. AND THOSE WERE THE INITIAL TESTS THAT WERE BEING OFFERED  
11:32AM 13 DURING THIS FRIENDS AND FAMILY OPENING.  
11:32AM 14 DO YOU SEE THAT?  
11:32AM 15 A. I DON'T RECALL THAT OTHER THAN READING IT HERE TODAY.  
11:32AM 16 Q. OKAY. AND THEN IT GOES ON, IF YOU GO DOWN THE PAGE A  
11:32AM 17 LITTLE BIT, THERE'S A HEADING, TO GET STARTED, PLEASE FOLLOW  
11:32AM 18 THESE SIMPLE STEPS.  
11:32AM 19 DO YOU SEE THAT?  
11:32AM 20 A. YES.  
11:32AM 21 Q. AND IT SAYS "EMPLOYEES: ALL EMPLOYEES WILL BE  
11:33AM 22 PRE-AUTHORIZED BY DR. JAIN FOR THESE TESTS. PLEASE CLICK ON  
11:33AM 23 THIS LINK TO SCHEDULE A TIME SLOT THAT IS CONVENIENT FOR YOU."  
11:33AM 24 DO YOU SEE THAT?  
11:33AM 25 A. YES.

11:33AM 1 Q. AND THAT'S BECAUSE IN CALIFORNIA, TO GO GET A LAB TEST,  
11:33AM 2 YOU HAVE TO HAVE A DOCTOR PRESCRIBING THAT; RIGHT?

11:33AM 3 A. CORRECT.

11:33AM 4 Q. AND DR. JAIN WAS ON THE SCENE IN ORDER TO PRESCRIBE THOSE  
11:33AM 5 TESTS; RIGHT?

11:33AM 6 A. CORRECT.

11:33AM 7 Q. RIGHT. SHE WAS MADE AVAILABLE FOR THAT PURPOSE?

11:33AM 8 A. CORRECT.

11:33AM 9 Q. AND IF YOU GO TO THE NEXT SECTION THERE, IT SAYS YOUR  
11:33AM 10 FRIENDS AND FAMILY. SO THE FRIENDS AND FAMILY OF THE  
11:33AM 11 EMPLOYEES, THEY'RE INSTRUCTED TO USE THE SAME LINK ABOVE TO  
11:33AM 12 SCHEDULE THEIR TIME SLOT.

11:33AM 13 DO YOU SEE THAT?

11:33AM 14 A. YES.

11:33AM 15 Q. LET'S LOOK AT 20351.

11:34AM 16 DO YOU HAVE 20351, SIR?

11:34AM 17 A. NOT YET, SIR.

11:34AM 18 Q. OKAY. NOW YOU SEE IT?

11:34AM 19 A. YES.

11:34AM 20 Q. AND YOU RECOGNIZE THIS AS A FLYER THAT WAS AVAILABLE FOR  
11:34AM 21 THOSE INITIAL TESTS THAT WERE BEING DONE AT THE PALO ALTO  
11:34AM 22 WALGREENS?

11:34AM 23 A. YES.

11:34AM 24 Q. AND IT RELATES TO THAT SAME BLOOD TESTING THAT WE WERE  
11:34AM 25 JUST TALKING ABOUT IN THE PREVIOUS EXHIBIT?

11:34AM 1

A. YES.

11:34AM 2

MR. COOPERSMITH: YOUR HONOR, WE OFFER 20351.

11:35AM 3

MR. BOSTIC: NO OBJECTION.

11:35AM 4

THE COURT: IT'S ADMITTED, AND IT MAY BE PUBLISHED.

11:35AM 5

(DEFENDANT'S EXHIBIT 20351 WAS RECEIVED IN EVIDENCE.)

11:35AM 6

BY MR. COOPERSMITH:

11:35AM 7

Q. OKAY. SO LOOKING AT THE FLYER, IT SAYS FREE HEALTH

11:35AM 8

SCREENING OFFERED FROM A TINY FINGERSTICK; RIGHT?

11:35AM 9

A. YES.

11:35AM 10

Q. AND THIS SAYS, "COMPLETE BLOOD COUNT AND DIABETES

11:35AM 11

SCREENING TESTS FOR ALL THERANOS EMPLOYEES, FAMILY AND

11:35AM 12

FRIENDS."

11:35AM 13

DO YOU SEE THAT?

11:35AM 14

A. YES.

11:35AM 15

Q. AND SO THAT WAS WHAT WAS GOING ON ON SEPTEMBER 9TH; RIGHT?

11:35AM 16

A. YES.

11:35AM 17

Q. OKAY. LET'S JUMP AHEAD.

11:35AM 18

DO YOU REMEMBER THAT YOU WERE TALKING ABOUT, DURING YOUR

11:35AM 19

DIRECT EXAMINATION, THAT RIGHT BEFORE THAT SEPTEMBER 9TH

11:35AM 20

INITIAL BLOOD TEST OFFERING AT WALGREENS IN PALO ALTO, THAT YOU

11:35AM 21

NEEDED MORE TIME TO WORK ON THE ASSAYS; RIGHT?

11:35AM 22

A. YES.

11:35AM 23

Q. AND YOU WERE ASKED QUESTIONS ON DIRECT ABOUT THAT SUBJECT

11:36AM 24

AND HOW THERE WASN'T ENOUGH TIME BEFORE THE LAUNCH WAS COMING

11:36AM 25

ON SEPTEMBER 9TH?

11:36AM 1 A. YES.

11:36AM 2 Q. OKAY. WE'VE JUST SEEN WHAT ACTUALLY HAPPENED ON

11:36AM 3 SEPTEMBER 9TH; RIGHT?

11:36AM 4 A. YES.

11:36AM 5 Q. NOW, LET'S GO A FEW MONTHS, OR A COUPLE OF MONTHS AHEAD,

11:36AM 6 OR ONE MONTH AHEAD AND LOOK AT EXHIBIT 12464.

11:36AM 7 OKAY. DO YOU SEE THIS IS AN EMAIL STRING AMONG YOU AND

11:36AM 8 MR. BALWANI?

11:36AM 9 A. YES.

11:36AM 10 Q. AND IT'S DATED NOVEMBER 7TH AND NOVEMBER 8TH, 2013?

11:37AM 11 A. YES.

11:37AM 12 Q. AND IT RELATES TO, AGAIN, THE LAUNCH OF WALGREENS?

11:37AM 13 A. IT LOOKS LIKE THIS WAS AFTER THE LAUNCH.

11:37AM 14 Q. WELL, IT WAS NOVEMBER 8TH?

11:37AM 15 A. YES.

11:37AM 16 Q. AND SO IT RELATES TO THE WALGREENS BLOOD TESTING?

11:37AM 17 A. YES.

11:37AM 18 MR. COOPERSMITH: OKAY, YOUR HONOR, WE OFFER

11:37AM 19 EXHIBIT 12464.

11:37AM 20 MR. BOSTIC: NO OBJECTION.

11:37AM 21 THE COURT: IT'S ADMITTED, AND IT MAY BE PUBLISHED.

11:37AM 22 (DEFENDANT'S EXHIBIT 12464 WAS RECEIVED IN EVIDENCE.)

11:37AM 23 BY MR. COOPERSMITH:

11:37AM 24 Q. OKAY. LET'S LOOK AT THE BOTTOM EMAIL, FIRST IN TIME.

11:37AM 25 AND MR. BALWANI WRITES ON NOVEMBER 7TH, 2013, "ADAM,

11:37AM 1 "WE WOULD LIKE TO OPEN OUR 300 UNIVERSITY AVENUE STORE TO  
11:37AM 2 PUBLIC THIS COMING MONDAY."

11:37AM 3 DO YOU SEE THAT?

11:37AM 4 A. YES.

11:37AM 5 Q. "WE FEEL CONFIDENT THAT WE CAN HANDLE 30 SAMPLES PER DAY  
11:37AM 6 FROM THIS LOCATION AT THIS POINT. AND IT HAS BEEN 2 MONTHS  
11:37AM 7 SINCE WE HAVE BEEN OUT IN WAG. IT'S TIME TO GO LIVE."

11:38AM 8 DO YOU SEE THAT?

11:38AM 9 A. YES.

11:38AM 10 Q. AND IT SAYS, WE WILL BE ALSO OPENING OUR FIRST PHOENIX  
11:38AM 11 LOCATION NEXT WEEK.

11:38AM 12 DO YOU SEE THAT?

11:38AM 13 A. YES.

11:38AM 14 Q. AND THEN IF YOU GO TO THE NEXT PAGE, MR. BALWANI WRITES,  
11:38AM 15 "THE KEY IS TO HAVE PERFECT DISCIPLINE AND SOP'S," STANDARD  
11:38AM 16 OPERATING PROCEDURES, "IN PLACE TO MAKE SURE WE HAVE A PLAN FOR  
11:38AM 17 EVERYTHING AND EVERYONE IN THE CHAIN KNOWS WHAT NEEDS TO BE  
11:38AM 18 DONE. WE WILL WORK ON THIS FROM NOW THRU NEXT 5 DAYS AND I  
11:38AM 19 KNOW WE WILL GET THIS DONE."

11:38AM 20 DO YOU SEE THAT?

11:38AM 21 A. YES.

11:38AM 22 Q. AND THEN HE WRITES, "I WOULD LIKE TO ASK AT THIS TIME IF  
11:38AM 23 YOU HAVE A REASON TO THINK WE NEED MORE TIME OR TEST OUT  
11:38AM 24 SOMETHING THAT WE HAVEN'T THOUGHT ABOUT. WE WILL BE PICKING UP  
11:38AM 25 SAMPLES EVERY HOUR OR SO DURING NOVEMBER FROM THE

11:38AM 1 300 UNIVERSITY AVENUE LOCATION SO I THINK AT A POINT WE WILL  
11:38AM 2 NEVER HAVE TOO MANY SAMPLES TO DEAL WITH AT ONE POINT."

11:38AM 3 DO YOU SEE THAT?

11:38AM 4 A. YES.

11:38AM 5 Q. SO MR. BALWANI IS ASKING YOU TO PROVIDE ANY REASON IF YOU  
11:38AM 6 NEED MORE TIME OR ANYTHING ELSE THAT YOU THINK NEEDS TO BE  
11:38AM 7 DONE; RIGHT?

11:38AM 8 A. YES.

11:38AM 9 Q. AND THEN YOU RESPONDED IN THE EMAIL ON THE FIRST PAGE;  
11:39AM 10 CORRECT?

11:39AM 11 A. YES.

11:39AM 12 Q. AND YOU WROTE, "SUNNY,

11:39AM 13 "THIS IS VERY EXCITING THAT WE ARE BROADENING OUR TESTING  
11:39AM 14 TO A WIDER BASE."

11:39AM 15 DO YOU SEE THAT?

11:39AM 16 A. YES.

11:39AM 17 Q. AND THEN YOU SAY, "THERE ARE A FEW ISSUES THAT NEED TO BE  
11:39AM 18 ADDRESSED."

11:39AM 19 RIGHT?

11:39AM 20 A. YES.

11:39AM 21 Q. AND THEN YOU HAVE OPERATIONAL ISSUES; RIGHT?

11:39AM 22 A. YES.

11:39AM 23 Q. AND THEN YOU HAVE MEDICAL/SCIENTIFIC ISSUES; RIGHT?

11:39AM 24 A. YES.

11:39AM 25 Q. AND THE MEDICAL/SCIENTIFIC ISSUES ARE WHAT YOU ARE

11:39AM 1 POINTING OUT THAT YOU THINK WOULD GO TO THE ABILITY OF THE  
11:39AM 2 ASSAYS TO FUNCTION PROPERLY; RIGHT?

11:39AM 3 A. YES.

11:39AM 4 Q. AND IN THIS CASE YOU'RE IDENTIFYING AS AN ISSUE  
11:39AM 5 SENSITIVITY OF VITAMIN D, TSH, AND POSSIBLY CTNI.

11:39AM 6 DO YOU SEE THAT?

11:39AM 7 A. SO IT'S NOT JUST THE MEDICAL/SCIENTIFIC ISSUES THAT ARE  
11:39AM 8 IMPORTANT FOR GOOD LABORATORY PRACTICE AND ACCURATE RESULTS.  
11:39AM 9 IT'S ALSO THE CHAIN OF COMMAND.

11:39AM 10 Q. I'M GOING TO INTERRUPT YOU BECAUSE I JUST WANT MY QUESTION  
11:39AM 11 ANSWERED, OKAY?

11:39AM 12 A. YEAH.

11:39AM 13 Q. SO IN THIS EMAIL YOU WERE JUST POINTING OUT THE  
11:39AM 14 MEDICAL/SCIENTIFIC ISSUES THAT I JUST READ, CORRECT, IN THIS  
11:40AM 15 EMAIL?

11:40AM 16 A. NO.

11:40AM 17 Q. WELL, THAT'S WHAT YOU'RE SAYING IN THIS EMAIL; RIGHT?

11:40AM 18 A. OPERATIONAL -- THERE'S OPERATIONAL AT THE TOP.

11:40AM 19 Q. CORRECT. YOU'RE POINTING OUT SOME OPERATIONAL ISSUES;  
11:40AM 20 CORRECT?

11:40AM 21 A. UH-HUH, UH-HUH.

11:40AM 22 Q. AND THEN YOU'RE ALSO POINTING OUT SOME MEDICAL AND  
11:40AM 23 SCIENTIFIC ISSUES?

11:40AM 24 A. CORRECT.

11:40AM 25 Q. AND THEN YOU SPECIFICALLY WRITE WHAT YOUR MEDICAL AND



11:40AM 1 SCIENTIFIC ISSUES WERE AT THE TIME; RIGHT?

11:40AM 2 A. YES.

11:40AM 3 Q. AND THAT WAS IN RESPONSE TO MR. BALWANI'S EMAIL WHERE HE  
11:40AM 4 ASKED YOU FOR ANYTHING THAT YOU HAD TO SAY AT THAT POINT;  
11:40AM 5 RIGHT?

11:40AM 6 A. YES.

11:40AM 7 Q. OKAY. AND THEN YOU POINTED OUT SPECIFICALLY SENSITIVITY  
11:40AM 8 ISSUES SURROUNDING VITAMIN D, TSH, AND POSSIBLY CTNI; RIGHT?

11:40AM 9 A. YES.

11:40AM 10 Q. AND THEN YOU GO ON TO EXPLAIN WHAT YOUR CONCERN WAS;  
11:40AM 11 RIGHT?

11:40AM 12 A. YES.

11:40AM 13 Q. OKAY. SO LET'S TALK ABOUT THAT.

11:40AM 14 FIRST OF ALL, ON THE ISSUE OF VITAMIN D, YOU HAD ACTUALLY  
11:41AM 15 SIGNED THAT VALIDATION REPORT ON SEPTEMBER 30TH, 2013; CORRECT?

11:41AM 16 A. I DO NOT RECALL.

11:41AM 17 Q. OKAY. LET'S JUST TAKE A QUICK LOOK AT EXHIBIT 9412 THAT  
11:41AM 18 IS IN THAT VALIDATION REPORT BINDER THAT I HANDED YOU, OR MAYBE  
11:41AM 19 YOU CAN SEE IT ON THE SCREEN AND YOU CAN SEE THE DATE  
11:41AM 20 SEPTEMBER 30TH, 2013?

11:41AM 21 A. YES.

11:41AM 22 Q. AND THAT'S THE VITAMIN D VALIDATION REPORT; CORRECT?

11:41AM 23 A. YES.

11:41AM 24 Q. AND THEN IF YOU GO TO EXHIBIT 20424, WHICH IS NOT YET IN  
11:41AM 25 EVIDENCE.

11:41AM 1 DO YOU SEE 20424?

11:41AM 2 A. YES.

11:41AM 3 Q. AND THIS IS DR. SIVARAMAN SENDING YOU AN EMAIL ON

11:41AM 4 NOVEMBER 20TH, 2013?

11:41AM 5 A. YES.

11:41AM 6 Q. TO YOU AND TO DR. YOUNG?

11:41AM 7 A. YES.

11:41AM 8 Q. AND ALSO A COPY TO RAN HU, H-U?

11:41AM 9 A. YES.

11:41AM 10 Q. OKAY. AND THEN THERE'S CERTAIN ATTACHMENTS.

11:42AM 11 DO YOU SEE THAT?

11:42AM 12 A. YES.

11:42AM 13 Q. AND THIS RELATES TO VITAMIN D AND TSH; RIGHT?

11:42AM 14 A. YES.

11:42AM 15 Q. OKAY.

11:42AM 16 YOUR HONOR, WE OFFER EXHIBIT --

11:42AM 17 THE COURT: 20424.

11:42AM 18 MR. COOPERSMITH: -- 20424, YES, THANK YOU.

11:42AM 19 MR. BOSTIC: NO OBJECTION.

11:42AM 20 THE COURT: IT'S ADMITTED. IT MAY BE PUBLISHED.

11:42AM 21 (DEFENDANT'S EXHIBIT 20424 WAS RECEIVED IN EVIDENCE.)

11:42AM 22 BY MR. COOPERSMITH:

11:42AM 23 Q. OKAY, LOOKING AT THE EMAIL, IT SAYS DR. SIVARAMAN IS

11:42AM 24 SENDING YOU THE UPDATED REVISED VITAMIN D AND TSH REPORTS WITH

11:42AM 25 THE REPEAT OF THE ANALYTICAL SENSITIVITY EXPERIMENTS, THE DATA

11:42AM 1 OF WHICH WAS SHARED WITH YOU IN THE LAST MEETING.

11:42AM 2 DO YOU SEE THAT?

11:42AM 3 A. YES.

11:42AM 4 Q. BECAUSE SHE WAS RESPONDING TO THE ISSUES THAT YOU WERE  
11:42AM 5 RAISING ABOUT SENSITIVITY ON THESE TWO ASSAYS; CORRECT?

11:42AM 6 A. YES.

11:42AM 7 Q. AND THEN IT GOES ON TO SAY, "PLEASE LET ME KNOW HOW YOU  
11:42AM 8 WOULD LIKE THE REVISIONS TO BE INCORPORATED. DO WE KEEP OR  
11:42AM 9 REMOVE THE ORIGINAL SECTION AND ALSO IF YOU NEED TO SIGN THESE  
11:42AM 10 TWO REPORTS AGAIN."

11:42AM 11 DO YOU SEE THAT?

11:43AM 12 A. YES.

11:43AM 13 Q. AND SO AFTER YOU RAISED THESE CONCERNS ABOUT THESE  
11:43AM 14 PARTICULAR ASSAYS, ADDITIONAL WORK WAS DONE IN THE RESEARCH AND  
11:43AM 15 DEVELOPMENT LAB TO SOLVE FOR THE SENSITIVITY ISSUES; RIGHT?

11:43AM 16 A. THAT'S WHAT IT LOOKS LIKE, YEAH, YEAH.

11:43AM 17 Q. OKAY. AND MR. BALWANI WAS NOT ON THESE EMAILS; RIGHT?

11:43AM 18 A. NO, HE'S NOT.

11:43AM 19 Q. AND IF YOU GO TO THE NEXT EXHIBIT, 20423.

11:43AM 20 DO YOU SEE THAT YET?

11:43AM 21 OKAY. DO YOU SEE IT ON YOUR SCREEN?

11:43AM 22 A. YES.

11:43AM 23 Q. AND DO YOU SEE AT THE BOTTOM THERE'S THE SAME EMAIL THAT  
11:43AM 24 WE JUST LOOKED AT FROM DR. SIVARAMAN?

11:43AM 25 A. YES.

11:43AM 1 Q. AND THEN THIS IS A DIFFERENT EMAIL CHAIN, SO IT HAS A  
11:43AM 2 RESPONSE FROM YOU; CORRECT?

11:43AM 3 A. YES.

11:43AM 4 Q. AND THEN YOU WERE JUST RESPONDING TO DR. SIVARAMAN AFTER  
11:43AM 5 SHE SENT YOU THOSE REVISED REPORTS THAT DEALT WITH SENSITIVITY?

11:44AM 6 A. YES.

11:44AM 7 Q. OKAY.

11:44AM 8 YOUR HONOR, WE OFFER 20423.

11:44AM 9 MR. BOSTIC: NO OBJECTION.

11:44AM 10 THE COURT: IT'S ADMITTED. IT MAY BE PUBLISHED.  
11:44AM 11 (DEFENDANT'S EXHIBIT 20423 WAS RECEIVED IN EVIDENCE.)

11:44AM 12 BY MR. COOPERSMITH:

11:44AM 13 Q. OKAY. NOW THAT WE'RE ALL SEEING IT, YOU SEE IT'S FROM YOU  
11:44AM 14 TO DR. SIVARAMAN AND THE SUBJECT IS REVISED TSH AND VITAMIN D  
11:44AM 15 REPORTS?

11:44AM 16 A. YES.

11:44AM 17 Q. AND AGAIN, MR. BALWANI IS NOT ON THIS EMAIL; RIGHT?

11:44AM 18 A. YES.

11:44AM 19 Q. IT SAYS, "HI, SHARADA,  
11:44AM 20 "THE NEW VITAMIN D REPORT LOOKS GOOD -- 2 MINOR POINTS."  
11:44AM 21 DO YOU SEE THAT?

11:44AM 22 A. YES.

11:44AM 23 Q. AND THEN YOU GO ON AND EXPLAIN SOMETHING THAT YOU WOULD  
11:44AM 24 LIKE DELETED IN CONNECTION WITH THE REFERENCE RANGE; RIGHT?

11:44AM 25 A. YES.

11:44AM 1 Q. YOU CAN TAKE THAT DOWN, MR. ALLEN.

11:44AM 2 NOW, VITAMIN D IN PARTICULAR, AT TIME IT'S A DIFFICULT

11:44AM 3 ASSAY; RIGHT?

11:45AM 4 A. I'M NOT SURE.

11:45AM 5 Q. OKAY. LET'S TAKE A LOOK AT AN EXHIBIT ALREADY IN

11:45AM 6 EVIDENCE, 20046.

11:45AM 7 AND DO YOU SEE THIS IS AN EMAIL STRING WITH A NUMBER OF

11:45AM 8 PEOPLE, INCLUDING YOURSELF?

11:45AM 9 BUT THE ONE I WANT TO FOCUS ON WAS THE EMAIL FROM

11:45AM 10 DR. PANDORI TO MR. BALWANI, MR. GEE, YOURSELF, AND

11:45AM 11 DANIEL YOUNG, WITH COPIES TO OTHERS.

11:45AM 12 DO YOU SEE THAT?

11:45AM 13 A. YES.

11:45AM 14 Q. AND THEN DR. PANDORI WRITES, "OK.

11:45AM 15 LONGLY, NOTE.

11:45AM 16 "ALSO, ALL,

11:45AM 17 "ATTACHED IS AN INTERESTING PAPER I'VE FOUND ON THE TOPIC

11:45AM 18 OF VARIABILITY OF VITAMIN D ASSAYS ON VARIOUS

11:45AM 19 METHODS/EQUIPMENT. IT MAY BE USEFUL IN REGARDS TO OUR EFFORT

11:46AM 20 TO ESTABLISH FAIR RANGES OF ACCEPTABILITY FOR AAP THIS ANALYTE,

11:46AM 21 WHICH SEEMS NOTORIOUS FOR VARIABILITY ON EVEN FDA APPROVED

11:46AM 22 TESTS."

11:46AM 23 RIGHT?

11:46AM 24 A. YES.

11:46AM 25 Q. AND YOU AGREE WITH DR. PANDORI THAT VITAMIN D IS NOTORIOUS

11:46AM 1 FOR VARIABILITY?

11:46AM 2 A. WELL, I DON'T WANT TO GET TOO TECHNICAL, BUT THERE'S 25

11:46AM 3 OH, OR 25 HYDROXY VITAMIN D, THERE'S 1,25 HYDROXY VITAMIN D.

11:46AM 4 THE ASSAYS TO DETECT TOTAL VITAMIN D, MY SENSE IS THAT

11:46AM 5 THEY'RE BETTER THAN THE ONES THAT CLAIM TO DETECT THE 25

11:46AM 6 HYDROXY VITAMIN D.

11:46AM 7 I MEAN, I'M JUST SAYING THERE'S MORE NUANCE TO THIS THAN

11:46AM 8 WHAT YOU'RE SAYING.

11:46AM 9 Q. I'M SURE THAT'S THE CASE, BUT I'M SIMPLY ASKING HERE

11:46AM 10 WHETHER YOU AGREE WITH DR. PANDORI IN TERMS OF WHAT HE'S SAYING

11:47AM 11 IN THIS EMAIL?

11:47AM 12 A. I'M NOT SURE WHAT HE'S SAYING, BECAUSE HE'S JUST SAYING

11:47AM 13 VITAMIN D, YOU KNOW, PERIOD.

11:47AM 14 Q. OKAY. DID YOU READ THE PAPER THAT HE ATTACHED?

11:47AM 15 A. I DON'T RECALL.

11:47AM 16 Q. OKAY. AND WAS THAT YOUR USUAL PRACTICE? IF DR. PANDORI

11:47AM 17 OR SOMEONE ELSE IN THE SCIENTIFIC TEAM SENT THE PAPER, WOULD

11:47AM 18 YOU TRY TO READ IT?

11:47AM 19 A. I WOULD TRY TO, YES.

11:47AM 20 Q. OKAY. LET'S TAKE A LOOK AT EXHIBIT 20303.

11:47AM 21 OKAY. DO YOU HAVE THAT ON YOUR SCREEN?

11:47AM 22 A. YES.

11:47AM 23 Q. AND IS THIS AN EMAIL STRING BETWEEN YOU AND MR. BALWANI

11:47AM 24 DATED NOVEMBER 11TH, 2013?

11:47AM 25 A. YES.

11:47AM 1 Q. AND IT RELATES TO PHOENIX?

11:47AM 2 A. YES.

11:47AM 3 Q. AND YOU UNDERSTOOD THAT THERANOS WAS PLANNING TO OPEN

11:48AM 4 STORES IN PHOENIX?

11:48AM 5 A. YES.

11:48AM 6 MR. COOPERSMITH: AND I OFFER 20303.

11:48AM 7 MR. BOSTIC: NO OBJECTION.

11:48AM 8 THE COURT: IT'S ADMITTED, AND IT MAY BE PUBLISHED.

11:48AM 9 (DEFENDANT'S EXHIBIT 20303 WAS RECEIVED IN EVIDENCE.)

11:48AM 10 BY MR. COOPERSMITH:

11:48AM 11 Q. DR. ROSENDORFF, DO YOU SEE IN THE BOTTOM EMAIL MR. BALWANI

11:48AM 12 IS WRITING TO YOU WITH A SUBJECT PHX, WHICH IS PHOENIX?

11:48AM 13 A. YES.

11:48AM 14 Q. AND THEN HE SAYS "ADAM,

11:48AM 15 "PLEASE NOTE THAT SINCE THE LOCAL MARKET NOW ALREADY KNOWS

11:48AM 16 THAT WE ARE IN ARIZONA, WE ARE ANNOUNCING PRESENCE IN 2 STORES

11:48AM 17 IN PHOENIX TOMORROW."

11:48AM 18 DO YOU SEE THAT?

11:48AM 19 A. YES.

11:48AM 20 Q. "WE WILL STILL CONTINUE TO MODULATE THE NUMBER OF SAMPLES

11:48AM 21 FROM THERE SO THAT THE TOTAL NUMBER OF SAMPLES THIS MONTH STILL

11:48AM 22 STAYS BELOW 100 PER DAY."

11:48AM 23 DO YOU SEE THAT?

11:48AM 24 A. YES.

11:48AM 25 Q. AND THAT WAS THAT OPERATIONAL ISSUE THAT WE DISCUSSED

11:48AM 1 EARLIER WHERE IT WOULD BE EASIER TO DEAL WITH A LOWER NUMBER OF  
11:48AM 2 SAMPLES?  
11:48AM 3 A. YOU STILL HAVE TO -- WELL, I CAN'T ANSWER THAT YES OR NO.  
11:49AM 4 Q. OKAY. AND THEN YOUR RESPONSE TO MR. BALWANI'S MESSAGE IS  
11:49AM 5 "EXCELLENT"?  
11:49AM 6 A. YES.  
11:49AM 7 Q. "THANK YOU."  
11:49AM 8 A. YES.  
11:49AM 9 Q. NOTHING ELSE?  
11:49AM 10 A. YES.  
11:49AM 11 Q. DR. ROSENDORFF, DO YOU REMEMBER ON DIRECT WHEN YOU WERE  
11:49AM 12 TALKING TO MR. BOSTIC YOU DISCUSSED AN INSPECTION THAT HAD  
11:49AM 13 OCCURRED IN SEPTEMBER OF 2013?  
11:49AM 14 A. YES.  
11:49AM 15 Q. AND I THINK ON TUESDAY WHEN I STARTED ASKING YOU  
11:49AM 16 QUESTIONS, WE SAW THAT THE INSPECTOR WAS AN EILEEN NORKIN.  
11:49AM 17 DO YOU REMEMBER THAT?  
11:49AM 18 A. FROM YESTERDAY, YES.  
11:49AM 19 Q. OR I THINK IT MIGHT HAVE BEEN WEDNESDAY.  
11:49AM 20 A. OH, I'M SORRY. CORRECT. I'M SORRY, YEAH.  
11:49AM 21 Q. OKAY. AND, IN FACT, THIS WAS A ROUTINE INSPECTION THAT  
11:50AM 22 WAS PLANNED; IS THAT RIGHT?  
11:50AM 23 A. CORRECT.  
11:50AM 24 Q. AND THIS INSPECTOR CAME AND LOOKED AT THE THERANOS LAB;  
11:50AM 25 RIGHT?



11:50AM 1 A. CORRECT.

11:50AM 2 Q. AND I THINK THAT, JUST TO MAKE SURE WE'RE CLEAR, HER JOB

11:50AM 3 AS YOU UNDERSTOOD IT WAS TO INSPECT THE THERANOS CLINICAL LAB;

11:50AM 4 RIGHT?

11:50AM 5 A. CORRECT.

11:50AM 6 Q. IT WAS NOT TO INSPECT THE RESEARCH AND DEVELOPMENT LAB?

11:50AM 7 A. CORRECT.

11:50AM 8 Q. AND YOU SAID ON WEDNESDAY THAT MR. BALWANI HAD -- HE

11:50AM 9 DIDN'T WANT PEOPLE TO LOOK AT THE RESEARCH AND DEVELOPMENT LAB;

11:50AM 10 RIGHT?

11:50AM 11 A. CORRECT.

11:50AM 12 Q. AND THERE WAS NO REASON THAT MS. NORKIN NEEDED TO INSPECT

11:50AM 13 THAT LAB; RIGHT?

11:50AM 14 A. NO.

11:50AM 15 Q. BECAUSE HER ONLY JOB WAS TO MAKE SURE THAT THAT LAB WAS

11:50AM 16 OPERATING PROPERLY ON THE CLINICAL LAB SIDE; RIGHT?

11:50AM 17 A. CORRECT.

11:50AM 18 Q. AND THE RESEARCH AND DEVELOPMENT LAB IS WHERE THERANOS IS

11:50AM 19 WORKING ON NEW ASSAYS AND NEW THINGS; RIGHT?

11:50AM 20 A. CORRECT.

11:50AM 21 Q. AND THERE WAS NO -- MS. NORKIN NEVER REQUESTED TO INSPECT

11:51AM 22 THE RESEARCH AND DEVELOPMENT LAB; RIGHT?

11:51AM 23 A. I WAS NEVER WITH HER -- I WASN'T WITH HER THE WHOLE TIME

11:51AM 24 SHE WAS THERE THAT DAY, SO I COULDN'T REALLY SAY.

11:51AM 25 Q. AND AS FAR AS THE TIME THAT YOU SPENT WITH HER, SHE DIDN'T

11:51AM 1 ASK YOU ABOUT THAT?

11:51AM 2 A. NO.

11:51AM 3 Q. AND THEN YOU ALSO SAID IN YOUR DIRECT EXAMINATION THAT YOU

11:51AM 4 SHOWED HER VALIDATION REPORTS.

11:51AM 5 A. YES.

11:51AM 6 Q. AND THE VALIDATION REPORTS WERE FOR THE EDISON DEVICE?

11:51AM 7 A. I BELIEVE SO, YES.

11:51AM 8 Q. AND ALSO FOR THE MODIFIED PREDICATE DEVICE?

11:51AM 9 A. YES.

11:51AM 10 Q. AND SO BECAUSE YOU SHOWED THOSE TO HER, YOU WERE INFORMING

11:51AM 11 HER THAT THERANOS WAS RUNNING THOSE PIECES OF EQUIPMENT IN THE

11:51AM 12 LAB; RIGHT?

11:51AM 13 A. I WAS INFORMING HER OF THE LDT'S THAT WE WERE RUNNING.

11:51AM 14 Q. RIGHT. AND THE LDT'S WERE THE EDISON AND THE MODIFIED

11:51AM 15 PREDICATE; RIGHT?

11:51AM 16 A. CORRECT.

11:51AM 17 Q. AND SO AFTER THAT, IF SHE HAD REQUESTED TO SEE THE ACTUAL

11:51AM 18 DEVICES IN THE NORMANDY LAB, YOU WOULD HAVE ALLOWED HER TO DO

11:51AM 19 THAT; RIGHT?

11:51AM 20 A. YES.

11:51AM 21 Q. YOU WOULDN'T HAVE REFUSED?

11:52AM 22 A. NO, I WOULD NOT.

11:52AM 23 Q. YOU WEREN'T TRYING TO HIDE ANYTHING FROM MS. NORKIN, WERE

11:52AM 24 YOU?

11:52AM 25 A. I WAS NOT.

11:52AM 1 Q. AND, IN FACT, PART OF NOT HIDING ANYTHING FROM HER WAS  
11:52AM 2 SHOWING HER THESE VALIDATION REPORTS?

11:52AM 3 A. CORRECT.

11:52AM 4 Q. AND SO IF SHE HAD ANY OTHER QUESTIONS ABOUT THE OPERATION  
11:52AM 5 OF ANY DEVICE THAT WAS RUNNING BLOOD TESTS IN THE CLINICAL LAB,  
11:52AM 6 YOU WOULD HAVE HAD TO PROVIDE THAT INFORMATION?

11:52AM 7 A. YES.

11:52AM 8 Q. AND YOU WOULD HAVE DONE THAT?

11:52AM 9 A. YES.

11:52AM 10 Q. OKAY.

11:52AM 11 YOUR HONOR, I'M GOING TO GO TO ANOTHER TOPIC. I KNOW IT'S  
11:52AM 12 A LITTLE BEFORE 12:00. WOULD THIS BE A GOOD TIME FOR A BREAK?

11:52AM 13 THE COURT: YOU'RE NOT GOING TO FINISH IT IN SEVEN  
11:52AM 14 MINUTES?

11:52AM 15 MR. COOPERSMITH: NO, YOUR HONOR.

11:52AM 16 THE COURT: ALL RIGHT.

11:52AM 17 LET'S TAKE OUR LUNCH BREAK NOW, LADIES AND GENTLEMEN.

11:52AM 18 LET'S TAKE 30 MINUTES, AND THEN WE'LL COME BACK.

11:52AM 19 MR. COOPERSMITH: THANK YOU, YOUR HONOR.

11:52AM 20 THE COURT: YOU'RE WELCOME.

11:52AM 21 (LUNCH RECESS TAKEN AT 11:52 A.M.)

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**AFTERNOON SESSION**

(JURY IN AT 12:35 P.M.)

THE COURT: THANK YOU. WE ARE BACK ON THE RECORD.

ALL PARTIES PREVIOUSLY PRESENT ARE PRESENT AGAIN.

DR. ROSENDORFF IS STILL ON THE STAND.

I'LL REMIND YOU, DR. ROSENDORFF, YOU'RE STILL UNDER OATH.

I JUST WANTED TO REMIND YOU, FOLKS, WE ARE GOING TO BREAK  
TODAY AT 2:45, 2:45 TODAY.

THANK YOU.

MR. COOPERSMITH.

MR. COOPERSMITH: THANK YOU, YOUR HONOR.

Q. GOOD AFTERNOON, DR. ROSENDORFF.

A. GOOD AFTERNOON.

Q. SO LET'S SWITCH TO A DIFFERENT SUBJECT, AND I WANT TO TALK  
TO YOU ABOUT THE LABORATORY INFORMATION SYSTEM AT THERANOS.

OKAY?

A. UH-HUH.

Q. AND YOU REMEMBER THERE WAS -- I THINK WE MENTIONED IT  
EARLIER, THERE WAS A LABORATORY INFORMATION SYSTEM?

A. YES.

Q. AND IT NEEDED TO BE UP AND RUNNING BEFORE THE WALGREENS  
TESTING BEGAN?

A. YES.

Q. AND THE LABORATORY INFORMATION SYSTEM WAS A DATABASE  
ESSENTIALLY; CORRECT?

12:36PM 1 A. YES.

12:36PM 2 Q. AND IN THE LABORATORY INFORMATION SYSTEM, LIKE, ALL OF THE

12:36PM 3 PATIENT RESULTS WERE HOUSED; RIGHT?

12:36PM 4 A. CORRECT.

12:36PM 5 Q. SO IF YOU WANTED TO LOOK UP ANY PATIENT RESULT, YOU COULD

12:36PM 6 DO THAT FROM LIS?

12:36PM 7 A. CORRECT, CORRECT.

12:36PM 8 Q. AND IF YOU WANTED TO KNOW ALL OF THE, FOR EXAMPLE, HCG

12:36PM 9 TESTS DONE IN A CERTAIN MONTH, YOU COULD DO THAT WITH LIS;

12:36PM 10 RIGHT?

12:36PM 11 A. CORRECT.

12:36PM 12 Q. AND I THINK YOU MENTIONED IN THE DIRECT EXAMINATION ON

12:36PM 13 WEDNESDAY THAT YOU WOULD, IN CONNECTION WITH INQUIRIES FROM

12:37PM 14 PHYSICIANS, YOU WOULD DO A TECHNICAL REVIEW TO SEE IF THINGS

12:37PM 15 HAD GONE WRONG AND TRY TO UNDERSTAND WHAT HAPPENED; RIGHT?

12:37PM 16 A. YES.

12:37PM 17 Q. NOW, WHEN AN ISSUE AROSE, YOU YOURSELF OR SOMEBODY ELSE

12:37PM 18 WOULD PULL INFORMATION FROM LIS TO PROVIDE DATA TO ADDRESS THE

12:37PM 19 SITUATION; CORRECT?

12:37PM 20 A. YES.

12:37PM 21 Q. AND THAT THE TYPE OF DATA COULD INCLUDE THE SPECIFIC ASSAY

12:37PM 22 THAT WAS USED?

12:37PM 23 A. YES.

12:37PM 24 Q. AND THE MACHINE THAT IT WAS RUN ON?

12:37PM 25 A. YES.

12:37PM 1 Q. AND THE REFERENCE RANGE?

12:37PM 2 A. CAN WE REWIND A LITTLE BIT?

12:37PM 3 SO I DON'T THINK THAT THE SPECIFIC MACHINES WERE RECORDED

12:37PM 4 IN THE LIS AT THERANOS. THEY'RE SUPPOSED TO BE. I MEAN,

12:37PM 5 THAT'S GOOD LIS THAT YOU KNOW EXACTLY WHAT INSTRUMENT SOMETHING

12:37PM 6 WAS RUN ON, YEAH.

12:37PM 7 Q. OKAY. IF I COULD REFER YOU -- AND I'VE HANDED YOU SOME

12:37PM 8 BINDERS, PROBABLY ON WEDNESDAY, THAT HAVE SOME PRIOR TESTIMONY

12:37PM 9 IN THEM.

12:38PM 10 A. UH-HUH.

12:38PM 11 Q. AND YOU SHOULD HAVE THEM. I'M SORRY TO REFER YOU BACK TO

12:38PM 12 BINDERS, BUT IT'S -- IF YOU COULD FIND EXHIBIT 28400.

12:38PM 13 A. OKAY. DO YOU KNOW WHICH BINDER IT IS IN?

12:38PM 14 Q. YES. IT WOULD BE IN VOLUME 4. IT SHOULD BE LABELLED.

12:38PM 15 A. OKAY. GOT IT.

12:38PM 16 Q. OKAY. AND IF YOU COULD TURN TO PAGE 2090?

12:38PM 17 A. I'M SORRY, PAGE 20 -- OH, YOU'RE REFERENCING THE TOP RIGHT

12:38PM 18 HAND?

12:38PM 19 Q. YES, PLEASE. THANK YOU. THANK YOU.

12:38PM 20 A. OKAY. GOT IT.

12:39PM 21 Q. OKAY. AND IF YOU TAKE A LOOK AT LINE 9?

12:39PM 22 A. YES.

12:39PM 23 Q. AND LINE 10?

12:39PM 24 A. YES, I'M SEEING IT.

12:39PM 25 Q. OKAY. DOES THAT REFRESH YOUR MEMORY THAT THE --

12:39PM 1 A. WELL, I MEAN, TO CLARIFY --

12:39PM 2 Q. WELL, CAN I JUST FINISH MY QUESTION?

12:39PM 3 A. I'M SORRY. I INTERRUPTED YOU.

12:39PM 4 Q. THAT'S OKAY. THANK YOU.

12:39PM 5 DOES THAT REFRESH YOUR MEMORY THAT THE LIS COULD HAVE

12:39PM 6 INCLUDED THE MACHINE THAT IT WAS RUN ON?

12:39PM 7 A. THE LIS WOULD TELL YOU IF IT WAS RUN ON AN EDISON VERSUS

12:39PM 8 AN IMMULITE VERSUS AN -- IT WOULDN'T TELL YOU THE ACTUAL

12:39PM 9 MACHINE. SO THE SERIAL NUMBER OF -- FOR INSTANCE, YOU KNOW,

12:39PM 10 THERE ARE MULTIPLE EDISONS, SO IT COULDN'T TELL YOU WHICH

12:39PM 11 PARTICULAR EDISON WAS BEING USED.

12:39PM 12 Q. OKAY. YOU DON'T REMEMBER THAT THAT WAS THE CASE, THAT IT

12:39PM 13 COULD TELL YOU A SPECIFIC EDISON BY SERIAL NUMBER?

12:40PM 14 A. I DON'T BELIEVE IT COULD.

12:40PM 15 Q. OKAY. BUT IT WOULD TELL YOU WHETHER IT WAS AN EDISON OR

12:40PM 16 IMMULITE OR SOME OTHER --

12:40PM 17 A. YES, YES. I BELIEVE SO, YES.

12:40PM 18 Q. AND YOU UNDERSTAND THAT IT WOULD ALSO TELL YOU THE

12:40PM 19 REFERENCE RANGE FOR THAT PARTICULAR TEST?

12:40PM 20 A. YES.

12:40PM 21 Q. THE TIME OF ARRIVAL IN THE LAB OF THE SAMPLE; CORRECT?

12:40PM 22 A. YES.

12:40PM 23 Q. AND THE TIME THAT THE REPORT WAS RELEASED?

12:40PM 24 A. YES.

12:40PM 25 Q. AND, OF COURSE, THE ACTUAL RESULTS; RIGHT?

12:40PM 1 A. YES.

12:40PM 2 Q. AND ALSO QUALITY CONTROL INFORMATION?

12:40PM 3 A. YES.

12:40PM 4 Q. AND YOU YOURSELF, YOU WERE ABLE TO LOG IN, AND YOU DID LOG

12:40PM 5 INTO THE LIS SYSTEM TO REVIEW DATA ON YOUR OWN; CORRECT?

12:40PM 6 A. YES, I DID.

12:40PM 7 Q. OKAY. AND WHEN INQUIRIES CAME IN FROM PHYSICIANS, YOU

12:40PM 8 WOULD GO TO LIS TO SEE HOW THERANOS RESULTS WERE TRENDING;

12:41PM 9 CORRECT?

12:41PM 10 A. I DON'T RECALL.

12:41PM 11 Q. OKAY. TAKE A LOOK AT, IT SHOULD BE IN THE SAME BINDER,

12:41PM 12 EXHIBIT 28404.

12:41PM 13 A. OKAY.

12:41PM 14 Q. AND I'M GOING TO REFER YOU SPECIFICALLY TO PAGE 2908.

12:41PM 15 A. OH, GOT IT.

12:41PM 16 Q. THANK YOU.

12:41PM 17 AND I'M GOING TO REFER YOU IN PARTICULAR TO LINES 24 AND

12:42PM 18 25?

12:42PM 19 A. OKAY.

12:42PM 20 Q. AND DOES THAT REFRESH YOUR MEMORY THAT WHEN INQUIRIES CAME

12:42PM 21 IN, YOU COULD GO TO LIS AND SEE HOW THE THERANOS RESULTS HAD

12:42PM 22 BEEN TRENDING?

12:42PM 23 A. YES, IT DOES.

12:42PM 24 Q. OKAY. AND THAT IS, IN FACT, WHAT HAPPENED; RIGHT?

12:42PM 25 A. YES.



12:42PM 1 Q. AND THEN YOU COULD ALSO SEE HOW MANY RESULTS ARE OUT OF  
12:42PM 2 REFERENCE RANGE WHEN YOU WERE DOING THIS WORK; RIGHT?

12:42PM 3 A. YES.

12:42PM 4 Q. AND ESSENTIALLY, WHEN AN INQUIRY CAME IN, YOU WOULD USE  
12:42PM 5 LIS TO DO AN INVESTIGATION; RIGHT?

12:42PM 6 A. YES.

12:42PM 7 Q. AND THAT'S THE WAY YOU RESOLVED, AT LEAST ONE OF THE TOOLS  
12:42PM 8 YOU USED TO RESOLVE, WHEN A PHYSICIAN INQUIRY CAME IN, WHAT WAS  
12:42PM 9 GOING ON AND HOW YOU MIGHT RESPOND TO THE PHYSICIAN?

12:42PM 10 A. CORRECT.

12:42PM 11 Q. AND ULTIMATELY DETERMINE WHETHER YOU COULD TELL THE  
12:42PM 12 PHYSICIAN THE TEST IS VALID OR, YOU KNOW, SOMETHING ELSE SHOULD  
12:42PM 13 BE DONE OR THAT SORT OF THING?

12:42PM 14 A. CORRECT.

12:43PM 15 Q. ALL RIGHT. NOW, WITH RESPECT TO LIS, YOU TOLD THE  
12:43PM 16 GOVERNMENT ABOUT LIS AS EARLY AS JUNE 2017; CORRECT?

12:43PM 17 A. I DON'T RECALL.

12:43PM 18 Q. OKAY. TAKE A LOOK AT EXHIBIT 28324.

12:43PM 19 MR. BOSTIC: I HAVE A RELEVANCE OBJECTION TO THIS  
12:43PM 20 LINE.

12:43PM 21 THE COURT: THERE WAS A RELEVANCE OBJECTION.

12:43PM 22 MR. COOPERSMITH: YOUR HONOR, I THINK WE'VE  
12:43PM 23 DISCUSSED THIS PRETTY EXTENSIVELY. THIS IS PART OF THE  
12:43PM 24 DEFENSE.

12:43PM 25 THE COURT HAS ALREADY RULED THAT THE QUALITY AND NATURE OF

12:43PM 1 THE GOVERNMENT'S INVESTIGATION IS AT ISSUE AND IT'S FAIR GAME,  
12:43PM 2 AND THAT'S WHAT THE RELEVANCE IS.

12:43PM 3 THE COURT: WELL, THANK YOU.

12:43PM 4 LET'S HEAR WHAT YOUR QUESTION IS IN REGARDS TO 28324, IS  
12:44PM 5 IT?

12:44PM 6 MR. COOPERSMITH: YES.

12:44PM 7 Q. SO, DR. ROSENDORFF, I'M JUST HAVING YOU LOOK AT  
12:44PM 8 EXHIBIT 28324.

12:44PM 9 DO YOU SEE THAT?

12:44PM 10 A. YES.

12:44PM 11 Q. AND THAT'S REFLECTING THE INTERVIEW OF YOU ON JUNE 7TH,  
12:44PM 12 2017?

12:44PM 13 A. YES.

12:44PM 14 Q. AND I THINK I REFERRED TO THIS EARLIER, BUT THIS IS ONE OF  
12:44PM 15 THOSE INTERVIEWS WHERE YOU'RE TALKING TO A GROUP OF AGENTS AND  
12:44PM 16 OTHERS, AND PROSECUTORS?

12:44PM 17 A. YES.

12:44PM 18 Q. AND ONE OF THOSE TIMES WHEN YOU KNEW YOU HAD TO BE  
12:44PM 19 TRUTHFUL?

12:44PM 20 A. YES.

12:44PM 21 Q. AND YOU WERE TRYING TO DO THAT; RIGHT?

12:44PM 22 A. YES.

12:44PM 23 Q. AND IN THAT SESSION, IF I CAN REFER YOU TO PAGE 5, PLEASE,  
12:44PM 24 SIR.

12:44PM 25 A. I HAVE IT.

12:44PM 1 Q. IF YOU LOOK AT THE MIDDLE OF THE PAGE, THERE'S A PARAGRAPH  
12:44PM 2 THAT STARTS WITH "INFORMATION."

12:44PM 3 A. OKAY. I HAVE IT NOW.

12:44PM 4 Q. IN THAT PARAGRAPH, YOU IN THIS INTERVIEW, IN FACT,  
12:44PM 5 INFORMED THE GOVERNMENT THAT THERE WAS A SYSTEM CALLED LIS;  
12:45PM 6 CORRECT?

12:45PM 7 A. YES.

12:45PM 8 Q. AND THAT THE SYSTEM WAS PUT INTO USE RIGHT AROUND THE TIME  
12:45PM 9 OF THE WALGREENS LAUNCH?

12:45PM 10 A. YES.

12:45PM 11 Q. AND THAT IT COULD SEARCH TEST RESULTS BY ANALYTE, ANALYTE  
12:45PM 12 VALUES IN PATIENTS?

12:45PM 13 A. YES.

12:45PM 14 Q. AND THAT DOCUMENTS WERE AUTO SIGNED THROUGH THE LIS  
12:45PM 15 SYSTEM; RIGHT?

12:45PM 16 THE COURT: IS THIS IN REGARDS TO A 613 ISSUE OR --

12:45PM 17 MR. COOPERSMITH: NO, YOUR HONOR. I'M SIMPLY  
12:45PM 18 POINTING OUT THAT HE INFORMED THE GOVERNMENT ABOUT THE LIS  
12:45PM 19 SYSTEM IN JUNE OF 2017, AND I THINK I'M DONE WITH THAT TOPIC.

12:45PM 20 THE COURT: OKAY. AS OPPOSED TO -- YOU WERE READING  
12:45PM 21 A DOCUMENT.

12:45PM 22 ANYHOW, WHY DON'T YOU FINISH YOUR QUESTION? GO AHEAD AND  
12:45PM 23 FINISH YOUR QUESTION.

12:45PM 24 MR. COOPERSMITH: I DON'T HAVE ANY FURTHER QUESTIONS  
12:45PM 25 ABOUT THIS DOCUMENT.

12:45PM 1 THE COURT: OKAY. ALL RIGHT. THANK YOU.

12:46PM 2 BY MR. COOPERSMITH:

12:46PM 3 Q. I'D LIKE TO MOVE TO A DIFFERENT TOPIC, DR. ROSENDORFF.

12:46PM 4 AND DURING THE DIRECT EXAMINATION FROM WEDNESDAY, YOU

12:46PM 5 TALKED ABOUT QUALITY CONTROL PROCEDURES AT THERANOS; RIGHT?

12:46PM 6 A. YES, I DID.

12:46PM 7 Q. OKAY. AND THAT WAS SOMETHING THAT WAS DONE IN THE CLIA

12:46PM 8 LAB; CORRECT?

12:46PM 9 A. CORRECT.

12:46PM 10 Q. AND IT WAS DONE FOR EDISON DEVICES THAT WERE RUNNING BLOOD

12:46PM 11 TESTS?

12:46PM 12 A. CORRECT.

12:46PM 13 Q. AND ALSO MODIFIED PREDICATES?

12:46PM 14 A. CORRECT.

12:46PM 15 Q. AND ALSO UNMODIFIED PREDICATES?

12:46PM 16 A. CORRECT.

12:46PM 17 Q. AND ANY LAB HAS TO DO QUALITY CONTROL IN ORDER TO MAKE

12:46PM 18 SURE THAT THE TESTING INSTRUMENTS ARE PERFORMING IN A WAY THAT

12:46PM 19 IS APPROPRIATE FOR TESTING HUMAN BLOOD SAMPLES; RIGHT?

12:46PM 20 A. CORRECT.

12:46PM 21 Q. AND AT THERANOS, IN FACT, THE QUALITY CONTROL ON ALL THOSE

12:46PM 22 DEVICES WAS DONE ON A DAILY BASIS?

12:46PM 23 A. WELL, SOMETIMES MORE. I MEAN, SOMETIMES MORE FREQUENTLY

12:47PM 24 THAN THAT.

12:47PM 25 Q. OKAY. SO AT LEAST DAILY, BUT SOMETIMES MORE FREQUENTLY?

12:47PM 1 A. YEAH, YEAH.

12:47PM 2 Q. AND THE PROTOCOL WAS THAT IF A DEVICE DIDN'T PASS QUALITY

12:47PM 3 CONTROL, THEN IT WOULDN'T BE USED FOR PATIENT TESTING?

12:47PM 4 A. CORRECT.

12:47PM 5 Q. UNTIL FURTHER STEPS WERE TAKEN?

12:47PM 6 A. CORRECT.

12:47PM 7 Q. AND THAT COULD INVOLVE RECALIBRATION; RIGHT?

12:47PM 8 A. CORRECT.

12:47PM 9 Q. AND THAT WAS TRUE FOR ANY DEVICE, INCLUDING PREDICATES?

12:47PM 10 A. CORRECT.

12:47PM 11 Q. OR MODIFIED PREDICATES?

12:47PM 12 A. CORRECT.

12:47PM 13 Q. OR EDISON DEVICES?

12:47PM 14 A. CORRECT.

12:47PM 15 Q. AND YOU YOURSELF DIDN'T RUN THE SAMPLES IN THAT MACHINE;

12:47PM 16 RIGHT?

12:47PM 17 A. UM, I THINK I RAN A FEW AFTER I JOINED THE COMPANY.

12:47PM 18 Q. OKAY.

12:47PM 19 A. I WANTED TO LEARN HOW IT WAS DONE, SO I HAD SOME OF THE

12:47PM 20 CLS'S TRAIN ME.

12:47PM 21 Q. OKAY. THAT MAKES SENSE.

12:47PM 22 BUT GOING -- YOU KNOW, ON A ROUTINE BASIS, IT WAS LAB

12:47PM 23 ASSOCIATES AND OTHER PEOPLE LIKE THAT; RIGHT?

12:47PM 24 A. CORRECT.

12:47PM 25 Q. OKAY. BUT YOU WERE OVERSEEING THAT PROCESS AS LAB

12:47PM 1 DIRECTOR?

12:47PM 2 A. CORRECT.

12:47PM 3 Q. OKAY. I'D LIKE TO TAKE A LOOK AT AN EXHIBIT WITH YOU, AND

12:48PM 4 I BELIEVE IT'S 1430.

12:48PM 5 I BELIEVE IT IS ALREADY IN EVIDENCE, YOUR HONOR.

12:48PM 6 OKAY. DO YOU SEE THAT EXHIBIT 1430 IS AN EMAIL FROM YOU

12:48PM 7 TO THE ENTIRE CLIA LAB --

12:48PM 8 A. YES.

12:48PM 9 Q. -- EMAIL ADDRESS?

12:48PM 10 AND THAT WOULD HAVE INCLUDED ALL OF THE PEOPLE WHO WORKED

12:48PM 11 IN THE CLIA LAB; RIGHT?

12:48PM 12 A. CORRECT.

12:48PM 13 Q. AND MAYBE OTHERS?

12:48PM 14 A. CORRECT.

12:48PM 15 Q. AND IN THAT EMAIL YOU'RE SAYING, "DEAR CLIA,

12:48PM 16 "PLEASE REFER TO THE FOLLOWING QC POLICIES."

12:48PM 17 RIGHT?

12:48PM 18 A. YES.

12:48PM 19 Q. AND THIS IS ON JANUARY 16TH, 2014?

12:48PM 20 A. CORRECT.

12:48PM 21 Q. AND YOU'RE COMMUNICATING TO THE CLIA LAB EMPLOYEES THAT

12:48PM 22 THESE ARE QC POLICIES THAT YOU WANT THEM TO FOLLOW; RIGHT?

12:48PM 23 A. YES.

12:49PM 24 Q. OKAY. AND THEN IF YOU GO TO THE NEXT PAGE, EVEN THOUGH

12:49PM 25 THERE'S AN EMAIL WITH YOUR -- FROM YOU, THERE'S NOT A

12:49PM 1 SIGNATURE, OR THERE WAS NO SIGNATURES ON THIS PAGE.

12:49PM 2 DO YOU SEE THAT?

12:49PM 3 A. YES.

12:49PM 4 Q. AND YOU PROBABLY CAN'T REMEMBER WHY THAT IS; RIGHT?

12:49PM 5 A. I DON'T RECALL.

12:49PM 6 Q. OKAY. BUT THEN LET'S GO TO THE NEXT PAGE.

12:49PM 7 AND THEN THERE'S A DAILY QC SECTION.

12:49PM 8 DO YOU SEE THAT?

12:49PM 9 A. YES.

12:49PM 10 Q. AND THAT SAYS, "RUN AT LEAST 2 AND PREFERABLY 3 CONTROLS"?

12:49PM 11 A. YES.

12:49PM 12 Q. AND THEN IF YOU GO ON, THERE'S A CONTINUOUS QC SECTION?

12:49PM 13 A. YES.

12:49PM 14 Q. AND THAT CONTINUOUS QC IS SOMETHING DIFFERENT THAN DAILY

12:49PM 15 QC; RIGHT?

12:49PM 16 A. CORRECT.

12:49PM 17 Q. AND IT'S A PROCESS WHERE OVER TIME YOU LOOK AT THE TRENDS

12:49PM 18 OF THE QC; RIGHT?

12:49PM 19 A. CORRECT. A QC -- A QC RESULT CAN BE ASSESSED RELATIVE TO

12:49PM 20 OTHER HISTORICAL QC RESULTS AND RESULT IN A FAILURE, IF THAT

12:50PM 21 MAKES SENSE.

12:50PM 22 FOR INSTANCE, 2.7, "TEN CONSECUTIVE OBSERVATIONS ON THE

12:50PM 23 SAME SIDE OF THE MEAN LINE," YOU KNOW, NONE OF THOSE QC RESULTS

12:50PM 24 IN AND OF THEMSELVES WOULD BE A FAILURE.

12:50PM 25 BUT WHEN YOU GET TEN ON THE SAME SIDE OF THE LINE, YOU

12:50PM 1 KNOW, ONE DAY YOU GET THE TENTH AND THEN YOU FAIL ACCORDING TO

12:50PM 2 THE WESTGARD RULES.

12:50PM 3 Q. RIGHT. AND UNDER THE CONTINUOUS QC RULES, LABS LOOK AT

12:50PM 4 THAT WITH REFERENCE TO SOMETHING CALLED THE WESTGARD RULES?

12:50PM 5 A. YES.

12:50PM 6 Q. AND IS THERE SOMETHING CALLED LEVEY-JENNINGS CHARTS THAT

12:50PM 7 GO INTO THAT?

12:50PM 8 A. CORRECT.

12:50PM 9 Q. OKAY. AND THIS IS REALLY JUST LOOKING AT QC OVER TIME AS

12:50PM 10 OPPOSED TO LIKE ON A DAILY BASIS; RIGHT?

12:50PM 11 A. CORRECT.

12:50PM 12 Q. AND THE POLICY IS THAT EVEN IF QC WERE TO PASS ON A GIVEN

12:50PM 13 INSTRUMENT EVERY DAY, YOU WOULD STILL PULL THE INSTRUMENT IF IT

12:50PM 14 WAS -- IF THE TRENDING OVER TIME WAS NOT UP TO SNUFF; RIGHT?

12:51PM 15 A. CORRECT.

12:51PM 16 Q. OKAY. AND THAT WAS THE POLICY?

12:51PM 17 A. CORRECT.

12:51PM 18 Q. OKAY. IF YOU GO TO PAGE 4 OF THE DOCUMENT.

12:51PM 19 AND THIS PAGE REFERENCES EDISON QC IN PARTICULAR; RIGHT?

12:51PM 20 A. YES.

12:51PM 21 Q. AND I THINK YOU TESTIFIED ON DIRECT ABOUT THE NEED TO

12:51PM 22 ESTABLISH QC RANGES?

12:51PM 23 A. YES.

12:51PM 24 Q. AND THAT'S REFLECTED IN SECTION 3.1?

12:51PM 25 A. YES.



12:51PM 1 Q. AND THEN IT TALKS ABOUT THE ACCEPTABLE LOW AND HIGH QC  
12:51PM 2 RANGES WITH REFERENCE TO TWO STANDARD DEVIATIONS.

12:51PM 3 DO YOU SEE THAT?

12:51PM 4 A. YES.

12:51PM 5 Q. AND STANDARD DEVIATIONS, THESE ARE JUST A REFERENCE TO HOW  
12:51PM 6 FAR AWAY FROM A GIVEN VALUE IT CAN BE AND STILL BE ABLE TO  
12:51PM 7 PASS; RIGHT?

12:51PM 8 A. WELL, YEAH, STANDARD DEVIATION IS STATISTICAL. SO WHEN  
12:51PM 9 YOU MINUS 2 SD'S -- I DON'T WANT TO GET TOO TECHNICAL. IT'S  
12:52PM 10 PROBABLY NOT NECESSARY.

12:52PM 11 Q. IT'S PROBABLY NOT.

12:52PM 12 A. YEAH.

12:52PM 13 Q. BUT I WILL JUST ASK YOU THIS, THIS -- FROM YOUR EXPERIENCE  
12:52PM 14 AS A LAB DIRECTOR, YOU KNOW, USING THESE STANDARD DEVIATION  
12:52PM 15 MEASURES WITH QUALITY CONTROL, THAT'S A TYPICAL LAB PRACTICE;  
12:52PM 16 RIGHT?

12:52PM 17 A. YES, IT IS.

12:52PM 18 Q. YOU WEREN'T DOING ANYTHING UNUSUAL OR DIFFERENT?

12:52PM 19 A. NO, I WAS NOT.

12:52PM 20 Q. OKAY. AND THE REASON WHY YOU LOOK AT STANDARD DEVIATIONS  
12:52PM 21 IS BECAUSE YOU'RE REALLY NOT EXPECTING, IF YOU RUN A PARTICULAR  
12:52PM 22 SAMPLE, OR EVEN A BIORAD SAMPLE FOR QC, YOU'RE NOT EXPECTING TO  
12:52PM 23 GET EXACTLY THE SAME VALUE EVERY TIME YOU RUN THAT; RIGHT?

12:52PM 24 A. THE CLOSER THOSE VALUES ARE, THE BETTER THE TEST.

12:52PM 25 Q. OF COURSE. BUT YOU'RE NOT EXPECTING AN IDENTICAL TEST;

12:52PM 1 RIGHT?

12:52PM 2 A. IF YOU STEP ON A SCALE TWICE YOU'RE GOING TO GET A

12:53PM 3 DIFFERENT READING.

12:53PM 4 Q. AND IF, FOR EXAMPLE, SOMEONE WERE TO TAKE A BLOOD SAMPLE

12:53PM 5 FROM ME AND RUN IT ON ANY BLOOD TESTING INSTRUMENT TWO TIMES,

12:53PM 6 FIVE TIMES, TEN TIMES, YOU WOULD NOT EXPECT THE IDENTICAL

12:53PM 7 NUMBER?

12:53PM 8 A. NO.

12:53PM 9 Q. AND THAT WOULD BE REALLY RARE?

12:53PM 10 A. YES, IT WOULD BE RARE.

12:53PM 11 Q. OKAY. BUT YOU'RE HOPING, IF THE INSTRUMENT IS FUNCTIONING

12:53PM 12 PROPERLY, THAT IF IT'S CLOSE ENOUGH, THAT YOU COULD

12:53PM 13 STATISTICALLY DECIDE THAT IT'S APPROPRIATE, IT'S GOING TO PASS;

12:53PM 14 RIGHT?

12:53PM 15 A. YES.

12:53PM 16 Q. OKAY. AND THAT'S WHAT THIS REALLY IS DOING, THE STANDARD

12:53PM 17 DEVIATION METHODOLOGY; RIGHT?

12:53PM 18 A. YES.

12:53PM 19 Q. AND IF YOU GO TO THE EDISON DAILY QC SECTION OF THIS.

12:53PM 20 THIS IS THE SECTION THAT DEALS WITH THE DAILY QUALITY ON

12:53PM 21 THE EDISON MACHINE; RIGHT?

12:53PM 22 A. YES.

12:53PM 23 Q. SO LET'S JUST GO THROUGH THAT. IT SAYS 3.2.1, "RUN AT

12:53PM 24 LEAST 2 AND PREFERABLY LEVELS. ENSURE QC MATERIAL IS NOT

12:53PM 25 OUTDATED/EXPIRED."

12:54PM 1 DO YOU SEE THAT?

12:54PM 2 A. YES.

12:54PM 3 Q. AND SO AS A STARTING POINT, THE PERSON WHO IS DOING THIS

12:54PM 4 TEST HAS TO MAKE SURE THE REAGENT IS NOT EXPIRED; RIGHT?

12:54PM 5 A. CORRECT.

12:54PM 6 Q. BECAUSE THAT COULD AFFECT THE RESULTS?

12:54PM 7 A. CORRECT.

12:54PM 8 Q. BUT THEN IN ADDITION, THE QC RUN HAS TO BE AT LEAST TWO,

12:54PM 9 AND IT DOESN'T -- THERE'S, LIKE, A WORD MISSING?

12:54PM 10 A. YEAH, I THINK, I THINK IT -- I THINK I MEANT THREE JUST

12:54PM 11 BASED ON LOOKING AT A PREVIOUS DOCUMENT. TWO AND PREFERABLY

12:54PM 12 THREE IS WHAT I MEANT TO SAY.

12:54PM 13 Q. OKAY. TWO, AND PREFERABLY THREE?

12:54PM 14 A. YEAH.

12:54PM 15 Q. AND SO THAT MEANS THAT IN ORDER FOR A MACHINE, AN EDISON

12:54PM 16 DEVICE IN THIS INSTANCE, TO PASS QC, IT HAS TO PASS AT LEAST

12:54PM 17 TWO AND MAYBE THREE LEVELS; RIGHT?

12:54PM 18 A. CORRECT.

12:54PM 19 Q. AND SO IT'S NOT LIKE A ONE AND DONE, SO TO SPEAK?

12:54PM 20 A. NO.

12:54PM 21 Q. AND SO IF EVERYTHING PASSES REFERRING TO 3.2.2, REFERRING

12:54PM 22 TO THE DOCUMENT, THEN THE MACHINE IS PASSING QC AND IT CAN RUN

12:54PM 23 PATIENT TESTS; RIGHT?

12:54PM 24 A. RIGHT.

12:54PM 25 Q. BUT IF IT FAILS, THEN YOU HAVE TO REDO THE QC?

12:55PM 1 A. YES.

12:55PM 2 Q. AND FAILURE IS DEFINED AS A FAILURE OF ONE OR MORE LEVELS;

12:55PM 3 RIGHT?

12:55PM 4 A. CORRECT.

12:55PM 5 Q. AND SO IF IT PASSES ONE LEVEL AND NOT BOTH, THEN THE

12:55PM 6 MACHINE FAILS QC?

12:55PM 7 A. CORRECT.

12:55PM 8 Q. AND IT WOULD NOT BE USED FOR PATIENT TESTING AT THAT

12:55PM 9 POINT?

12:55PM 10 A. CORRECT.

12:55PM 11 Q. OKAY. AND THEN IF YOU REPEAT QC ON 3.2.4, IF THE QUALITY

12:55PM 12 CONTROL STILL FAILS, THEN YOU HAVE TO RECALIBRATE THE

12:55PM 13 INSTRUMENT?

12:55PM 14 A. RIGHT.

12:55PM 15 Q. AND THAT'S A MORE LENGTHY PROCESS?

12:55PM 16 A. CORRECT.

12:55PM 17 Q. AND THEN ON 3.2.5, THE POLICY IS IF THE QC PASSES AFTER

12:55PM 18 RECALIBRATION, THEN YOU RUN PATIENT SPECIMENS; RIGHT?

12:55PM 19 A. YES.

12:55PM 20 Q. BUT IF IT STILL FAILS, THEN THERE'S, IN CAPITAL LETTERS,

12:55PM 21 STOP; RIGHT?

12:55PM 22 A. YES.

12:55PM 23 Q. AND THAT'S WHEN THE POLICY SAYS YOU HAVE TO CONSULT WITH

12:56PM 24 THE THERANOS TECHNICAL SUPPORT; RIGHT?

12:56PM 25 A. YES.

12:56PM 1 Q. BECAUSE NOW YOU HAVE TO LOOK MORE DEEPLY INTO THE PROBLEM  
12:56PM 2 AND TRY TO FIGURE OUT WHAT IS GOING ON?  
12:56PM 3 A. YES.  
12:56PM 4 Q. OKAY. AND THIS WAS YOUR POLICY?  
12:56PM 5 A. YES, IT WAS.  
12:56PM 6 Q. OKAY. NOW, THIS MAY SOUND LIKE A BASIC QUESTION, BUT  
12:56PM 7 THESE QC TESTS, I THINK WE ESTABLISHED THE OTHER DAY THAT THIS  
12:56PM 8 IS USING, IN THE CASE OF EDISON, SOMETHING -- A PRODUCT FROM A  
12:56PM 9 COMPANY CALLED BIORAD?  
12:56PM 10 A. CORRECT.  
12:56PM 11 Q. AND IT'S NOT ACTUALLY HUMAN BLOOD; RIGHT?  
12:56PM 12 A. THIS IS, UM -- IT'S CONSTITUTED TO RESEMBLE SERUM AND  
12:56PM 13 PLASMA. IT'S GOT -- YOU KNOW, I DON'T WANT TO GO INTO IT TOO  
12:56PM 14 CLOSELY, BUT IT'S THE CLOSEST YOU CAN GET TO HUMAN BLOOD.  
12:56PM 15 IT ALSO NEEDS TO BE PRETTY STABLE TO BE ABLE TO RUN IT FOR  
12:56PM 16 A PERIOD OF TIME. IT NEEDS TO WITHSTAND TRANSPORTATION. IT  
12:56PM 17 HAS DETERGENTS, BUFFERS IN IT AND WHATNOT, PROTEINS.  
12:57PM 18 Q. RIGHT. THAT'S WHAT IS NEEDED TO LIKE MANUFACTURE AND  
12:57PM 19 TRANSPORT THESE TYPE OF QC MATERIALS?  
12:57PM 20 A. YEAH, AND THEY'RE COMMONLY USED FOR QC BLOOD TESTS.  
12:57PM 21 Q. RIGHT. BUT EVEN THOUGH THEY'RE MADE TO MIMIC HUMAN BLOOD,  
12:57PM 22 THEY'RE NOT ACTUALLY HUMAN BLOOD?  
12:57PM 23 A. CORRECT, CORRECT.  
12:57PM 24 Q. AGAIN, IT SOUNDS LIKE A BASIC QUESTION, BUT WHEN ONE OF  
12:57PM 25 THE LABORATORY RUNS PERSONNEL RUN ONE OF THESE QC TESTS AND

12:57PM 1 THEY GET A RESULT, NOTHING IS BEING REPORTED TO A PATIENT AT  
12:57PM 2 THAT POINT; RIGHT?

12:57PM 3 A. CORRECT. CORRECT, YES.

12:57PM 4 Q. OKAY. SO LET'S TALK ABOUT AN ISSUE THAT CAME UP ON  
12:57PM 5 DIRECT.

12:57PM 6 AND AT THERANOS, DO YOU RECALL THERE WAS A PROCEDURE WHERE  
12:57PM 7 THERE WERE ACTUALLY SIX DATA POINTS THAT WERE YIELDED FROM THE  
12:57PM 8 EDISON?

12:57PM 9 A. YES.

12:57PM 10 Q. RIGHT?

12:57PM 11 AND THAT WAS BECAUSE TO RUN A BLOOD TEST, THERE WOULD  
12:57PM 12 ACTUALLY BE THREE EDISON MACHINES USED?

12:58PM 13 A. THREE AT ONE POINT, AND THEN WHEN THE SIXTH TIP CAME  
12:58PM 14 ABOUT, IT WAS JUST THE ONE INSTRUMENT.

12:58PM 15 Q. SO ORIGINALLY THERE WERE THREE EDISONS RUNNING A TEST, AND  
12:58PM 16 EACH EDISON HAD TWO TIPS; RIGHT?

12:58PM 17 A. CORRECT, CORRECT.

12:58PM 18 Q. BUT THEN YOU REMEMBER ANOTHER POINT IN TIME WHERE THAT WAS  
12:58PM 19 MODIFIED SO THAT THE EDISON WOULD HAVE THREE TIPS?

12:58PM 20 A. SIX.

12:58PM 21 Q. OR ALL SIX; RIGHT?

12:58PM 22 A. CORRECT.

12:58PM 23 Q. AND SO THAT MEANT THAT YOU ONLY NEEDED ONE EDISON?

12:58PM 24 A. CORRECT.

12:58PM 25 Q. AND SO THERE WAS, LIKE, I GUESS A MANUFACTURING CHANGE IN

12:58PM 1 HOW THE EDISONS WERE MANUFACTURED?

12:58PM 2 A. CORRECT.

12:58PM 3 Q. AND SO AT SOME POINT IN TIME YOU NO LONGER NEEDED THE

12:58PM 4 THREE EDISONS, AND YOU COULD DO THE TESTS WITH ONE EDISON?

12:58PM 5 A. CORRECT.

12:58PM 6 Q. AND BECAUSE YOUR SIX DATA POINTS CAME RIGHT FROM THE ONE

12:58PM 7 MACHINE?

12:58PM 8 A. CORRECT.

12:58PM 9 Q. AND YOU DIDN'T NEED THREE ANYMORE?

12:58PM 10 A. CORRECT.

12:58PM 11 Q. BUT EITHER WAY, IN THE PREVIOUS INCARNATION OR THE LATER

12:58PM 12 INCARNATION, YOU'RE STILL GETTING SIX DATA POINTS; RIGHT?

12:58PM 13 A. YES.

12:58PM 14 Q. THEY'RE CALLED TIPS, BUT THEY'RE ESSENTIALLY SIX DATA

12:59PM 15 POINTS?

12:59PM 16 A. CORRECT.

12:59PM 17 Q. AND THE TIPS JUST REFERS TO, LIKE, AN ACTUAL PHYSICAL

12:59PM 18 MECHANISM WITHIN THE DEVICE; RIGHT?

12:59PM 19 A. THE TIP IS -- BASICALLY IT'S A PIECE OF PLASTIC THAT FITS

12:59PM 20 OVER A PROBE, TO MY KNOWLEDGE, AND IT'S COATED WITH ANTIBODIES.

12:59PM 21 I MEAN, EACH OF THOSE TIPS IS INVOLVED IN PRODUCING A SINGLE

12:59PM 22 OBSERVATION, YEAH.

12:59PM 23 Q. OKAY. AND YOU REMEMBER YOU TALKED TO US ON DIRECT THERE

12:59PM 24 WAS A PROCEDURE AT THERANOS WHERE EVEN THOUGH THERE WERE SIX

12:59PM 25 DATA POINTS, THE FINAL ANSWER OR RESULT COULD BE BASED ON FOUR

12:59PM 1 OF THE SIX?

12:59PM 2 A. CORRECT.

12:59PM 3 Q. AND THAT'S SOMETIMES KNOWN AS THE PROCESS OF OUTLIER

12:59PM 4 REMOVAL?

12:59PM 5 A. CORRECT.

12:59PM 6 Q. AND LET'S LOOK AT EXHIBIT 1525, WHICH YOU CAN SEE ON YOUR

12:59PM 7 SCREEN, I THINK.

01:00PM 8 AND EXHIBIT 1525 HAS BEEN PREVIOUSLY ADMITTED, SO WITH

01:00PM 9 YOUR PERMISSION, WE WOULD LIKE TO PUBLISH IT, YOUR HONOR.

01:00PM 10 THE COURT: YES.

01:00PM 11 MR. COOPERSMITH: THANK YOU.

01:00PM 12 Q. LET'S GO TO THE EARLIEST EMAIL IN TIME.

01:00PM 13 AND THIS IS FROM ERIKA CHEUNG.

01:00PM 14 DO YOU SEE THAT?

01:00PM 15 A. YES.

01:00PM 16 Q. AND SHE WAS ONE OF THE LAB ASSOCIATES?

01:00PM 17 A. YES.

01:00PM 18 Q. AND ON FEBRUARY 10TH, 2014, SHE WROTE TO YOU AND JAMIE LIU

01:00PM 19 AND DR. PANDORI?

01:00PM 20 A. YES.

01:00PM 21 Q. AND SHE SAID "I RERAN THE LEVEL 1 QC FOR TSH, IT FAILED

01:00PM 22 AGAIN."

01:00PM 23 A. YES.

01:00PM 24 Q. AND THE DATA IS IN THE -- THERE'S A NUMBER AND IT GOES ON?

01:00PM 25 A. YES.



01:00PM 1 Q. AND SHE GOES ON TO TALK ABOUT RECALIBRATING AND SO FORTH.

01:00PM 2 DO YOU SEE THAT?

01:00PM 3 A. YES.

01:00PM 4 Q. AND THEN LET'S GO TO THE EMAIL AT THE TOP OF PAGE 3.

01:01PM 5 IT SAYS, "HI ADAM,

01:01PM 6 "USED A NEW BSA BUFFER... STILL FAILED. IF I DELETE TO

01:01PM 7 POINT THAT COULD PROBABLY CONSIDERED OUTLIERS ON MY RERUN, THE

01:01PM 8 QC WOULD PASS. I ATTACHED THE DATA SHOWING WHAT I'M TALKING

01:01PM 9 ABOUT. OTHERWISE, I'M NOT SURE WHAT TO DO NOW EXCEPT WAIT

01:01PM 10 UNTIL THE CAPSYS QC'S ARE COMPLETED."

01:01PM 11 RIGHT?

01:01PM 12 A. YES.

01:01PM 13 Q. AND THE CAPSYS, CAPSYS REFERS TO A TYPE OF CARTRIDGE THAT

01:01PM 14 THERANOS WAS MANUFACTURING?

01:01PM 15 A. YES.

01:01PM 16 Q. OKAY. AND THEN IF YOU GO TO THE NEXT PAGE, THEN YOU

01:01PM 17 RESPONDED TO MS. CHEUNG.

01:01PM 18 DO YOU SEE THAT?

01:01PM 19 A. YES.

01:01PM 20 Q. AND YOU WROTE, "HI ERIKA,

01:01PM 21 "YES WE CAN DELETE AS MANY AS 2 OF THE 6 DATA POINTS."

01:01PM 22 RIGHT?

01:01PM 23 A. CORRECT.

01:01PM 24 Q. AND MR. BALWANI IS NOT ON THE EMAIL; RIGHT?

01:01PM 25 A. CORRECT.

01:01PM 1 Q. AND THEN ABOVE THAT, DR. PANDORI SAYS, "IS THIS SOMETHING  
01:01PM 2 THAT CLIA CAN STAND ON AS A POLICY, OR DO YOU WANT THEM TO  
01:02PM 3 CHECK WITH US FIRST BEFORE DOING THIS?"  
01:02PM 4 RIGHT?  
01:02PM 5 A. YES.  
01:02PM 6 Q. AND SO DR. PANDORI IS ASKING YOU A QUESTION; CORRECT?  
01:02PM 7 A. YES.  
01:02PM 8 Q. AND NOBODY ELSE?  
01:02PM 9 A. CORRECT.  
01:02PM 10 Q. AND THEN YOU RESPOND, "THIS RULE WILL BE PART OF THE  
01:02PM 11 ALGORITHM WHEN THE EDISON 3.5 CALCULATIONS ARE AUTOMATED."  
01:02PM 12 RIGHT?  
01:02PM 13 A. YES.  
01:02PM 14 Q. AND THAT ALGORITHM WAS SOMETHING THAT DR. YOUNG WAS  
01:02PM 15 WORKING ON?  
01:02PM 16 A. UM, I DON'T KNOW -- WELL, THAT'S SOMETHING THAT DR. YOUNG  
01:02PM 17 TOLD ME, YES, YES.  
01:02PM 18 Q. OKAY. THAT HE WAS WORKING ON THIS ALGORITHM; RIGHT?  
01:02PM 19 A. YES.  
01:02PM 20 Q. OKAY. BECAUSE HE'S AN EXPERT IN BIOSTATISTICS; RIGHT?  
01:02PM 21 A. I THINK SO, YES, YEAH.  
01:02PM 22 Q. AND THEN DR. PANDORI WROTE ON THE BOTTOM, "SO IT IS OK FOR  
01:02PM 23 THE CLA TO DO THIS AUTOMATICALLY UNTIL THEN I ASSUME."  
01:02PM 24 A. YES.  
01:02PM 25 Q. AND THE CLA IS THE CLINICAL LAB ASSOCIATE?

01:02PM 1 A. YES.

01:02PM 2 Q. AND THAT IS SOMEONE LIKE ERIKA CHEUNG?

01:02PM 3 A. YES.

01:02PM 4 Q. AND THEN ABOVE THAT YOU WROTE, "YES -- IT'S OK IF THEY DO

01:03PM 5 IT -- THAT IS WHY WE ARE RUNNING 3 EDISONS -- TO GET ENOUGH

01:03PM 6 DATA POINTS AND AVERAGE OUT VARIABILITY."

01:03PM 7 RIGHT?

01:03PM 8 A. YES.

01:03PM 9 Q. AND SO YOU'RE APPROVING OF THE PROCESS?

01:03PM 10 A. YES.

01:03PM 11 Q. AND MR. BALWANI IS NOT ON THAT EMAIL EITHER?

01:03PM 12 A. NO.

01:03PM 13 Q. OKAY. LET'S TAKE A LOOK AT EXHIBIT 13809.

01:04PM 14 ACTUALLY, EVEN BEFORE THAT, LET'S JUST SET THAT UP BY

01:04PM 15 LOOKING AT EXHIBIT 20570, MR. ALLEN.

01:04PM 16 DO YOU SEE 20570 IN FRONT OF YOU?

01:04PM 17 A. YES.

01:04PM 18 Q. AND THIS IS AN EMAIL OR INVITATION MEETING FROM MR. GEE.

01:04PM 19 DO YOU SEE THAT?

01:04PM 20 A. YES.

01:04PM 21 Q. AND IT'S FROM JULY 10TH, 2014?

01:04PM 22 A. YES.

01:04PM 23 Q. AND REQUIRED ATTENDEES INCLUDE ADAM ROSENDORFF; RIGHT?

01:04PM 24 A. CORRECT.

01:04PM 25 Q. AND IS IT ABOUT REVIEWING AND DISCUSSING QUARTER 1 AND

01:04PM 1 QUARTER 2 QUALITY?

01:04PM 2 A. YES.

01:04PM 3 Q. AND THAT WAS -- I THINK WE TALKED ABOUT THIS ON WEDNESDAY,

01:04PM 4 BUT MR. GEE IS THE QUALITY CONTROL MANAGER AND FROM TIME TO

01:04PM 5 TIME PRESENTED DATA ON QUALITY CONTROL PERFORMANCE AT THERANOS;

01:04PM 6 RIGHT?

01:04PM 7 A. YES.

01:04PM 8 Q. AND THIS WAS ONE OF THOSE MEETINGS TO TRY TO DO THAT KIND

01:04PM 9 OF PRESENTATION?

01:04PM 10 A. YES.

01:04PM 11 Q. OKAY. AND IF YOU GO TO 20571, THE NEXT EXHIBIT.

01:05PM 12 OH, I'M SORRY, YOUR HONOR. I OFFER 20570.

01:05PM 13 MR. BOSTIC: NO OBJECTION.

01:05PM 14 THE COURT: IT'S ADMITTED. IT MAY BE PUBLISHED.

01:05PM 15 (DEFENDANT'S EXHIBIT 20570 WAS RECEIVED IN EVIDENCE.)

01:05PM 16 MR. COOPERSMITH: THANK YOU.

01:05PM 17 Q. AND THEN LET'S GO TO 20571.

01:05PM 18 AND DO YOU SEE THAT ON YOUR SCREEN?

01:05PM 19 A. YES.

01:05PM 20 Q. AND THIS IS WHERE YOU ACCEPTED THE MEETING INVITATION?

01:05PM 21 A. YES.

01:05PM 22 Q. BECAUSE YOU WANTED TO GO TO THE MEETING TO LEARN ABOUT

01:05PM 23 QUALITY CONTROL PERFORMANCE?

01:05PM 24 A. YES.

01:05PM 25 Q. OKAY. NOW LET'S LOOK AT 13809.

01:05PM 1 OKAY. LOOKING AT 13809, THIS IS ACTUALLY THE PRESENTATION

01:05PM 2 THAT MR. GEE MADE AT THAT MEETING; CORRECT?

01:05PM 3 A. I BELIEVE SO.

01:05PM 4 Q. OKAY. AND IT'S THE SAME DATE, RIGHT, JULY 10TH, 2014?

01:06PM 5 A. YES.

01:06PM 6 Q. AND IT'S TITLED QUALITY SYSTEMS PRESENTATION Q1/Q2, 2014

01:06PM 7 REVIEW.

01:06PM 8 DO YOU SEE THAT?

01:06PM 9 A. YES.

01:06PM 10 Q. AND YOU RECALL AT THESE MEETINGS, MR. GEE WOULD MAKE A

01:06PM 11 PRESENTATION ABOUT WHAT HE SAW IN THE QUALITY CONTROL

01:06PM 12 PERFORMANCE?

01:06PM 13 A. YES.

01:06PM 14 Q. AND THAT WAS SO YOU COULD GET THAT INFORMATION?

01:06PM 15 A. USUALLY HE WOULD PRINT THINGS OUT ON A PIECE OF PAPER AND

01:06PM 16 WE WOULD LOOK AT THE PIECE OF PAPER TOGETHER.

01:06PM 17 Q. BUT THEN SOMETIMES HE WOULD SHOW SLIDES?

01:06PM 18 A. I THINK SO.

01:06PM 19 Q. AND THIS IS ONE OF THE OCCASIONS WHERE HE SHOWED SLIDES?

01:06PM 20 A. I THINK SO.

01:06PM 21 MR. COOPERSMITH: OKAY. YOUR HONOR, WE OFFER

01:06PM 22 EXHIBIT 13809.

01:06PM 23 MR. BOSTIC: NO OBJECTION.

01:06PM 24 THE COURT: IT'S ADMITTED. IT MAY BE PUBLISHED.

01:06PM 25 (DEFENDANT'S EXHIBIT 13809 WAS RECEIVED IN EVIDENCE.)

01:06PM 1 BY MR. COOPERSMITH:

01:06PM 2 Q. LET'S GO TO THE FIRST PAGE. THAT'S WHAT I READ TO YOU,

01:06PM 3 DR. ROSENDORFF?

01:06PM 4 A. YES.

01:06PM 5 Q. AND IT HAS AN AGENDA ON THE SECOND PAGE?

01:06PM 6 A. YES.

01:06PM 7 Q. AND THAT'S GOING THROUGH THE DIFFERENT THINGS THAT MR. GEE

01:06PM 8 WANTED TO PRESENT; RIGHT?

01:06PM 9 A. YES.

01:07PM 10 Q. OKAY. AND THEN THE NEXT PAGE HAS A MISSION AND CORE

01:07PM 11 STATEMENT.

01:07PM 12 DO YOU SEE THAT?

01:07PM 13 A. YES.

01:07PM 14 Q. IF YOU GO TO PAGE -- I GUESS IT'S THE NEXT PAGE AFTER

01:07PM 15 THAT.

01:07PM 16 DO YOU SEE IT HAS THERANOS LABORATORY LICENSURES?

01:07PM 17 A. YES.

01:07PM 18 Q. AND HERE MR. GEE IS JUST REVIEWING WHICH STATES LICENSED

01:07PM 19 THERANOS FOR OPERATING VARIOUS FACILITIES; IS THAT RIGHT?

01:07PM 20 A. YES.

01:07PM 21 Q. AND THEN THERE'S A REFERENCE, LABORATORY LICENSURES.

01:07PM 22 DO YOU SEE THAT?

01:07PM 23 A. YES.

01:07PM 24 Q. AND THOSE WERE OUTSIDE LABORATORIES THAT THERANOS COULD

01:07PM 25 SEND SAMPLES TO IF THEY WANTED TO; RIGHT?

01:07PM 1 A. YES.

01:07PM 2 Q. AND ONE OF THEM WAS ARUP?

01:07PM 3 A. CORRECT.

01:07PM 4 Q. AND ONE OF THEM WAS UCSF?

01:07PM 5 A. YES.

01:07PM 6 Q. AND THAT WAS -- OKAY. SORRY. LET ME START AGAIN.

01:08PM 7 THE OUTSIDE LABORATORIES, THOSE WERE THERE SO THAT IF

01:08PM 8 THERANOS DIDN'T HAVE A TEST, IT COULD SEND THOSE TO ANOTHER LAB

01:08PM 9 TO DO?

01:08PM 10 A. CORRECT.

01:08PM 11 Q. AND WHEN A PATIENT GOT A RESULT FROM ONE OF THOSE OUTSIDE

01:08PM 12 LABORATORIES, IT SAID RIGHT ON THE REPORT THAT IT WAS FROM ARUP

01:08PM 13 OR SAN FRANCISCO; RIGHT?

01:08PM 14 A. I BELIEVE SO. I MEAN, THAT'S REQUIRED UNDER CLIA, YEAH.

01:08PM 15 YEAH.

01:08PM 16 Q. OKAY. SO THEN MOVING FORWARD THROUGH THE EXHIBIT.

01:08PM 17 IF YOU GO TO NOT THE NEXT PAGE, BUT THE PAGE AFTER THAT,

01:08PM 18 THIS IS CALLED WALGREENS/THERANOS SAMPLES BY STORE; RIGHT?

01:08PM 19 A. YES.

01:08PM 20 Q. AND THIS GOES THROUGH, IN A BAR GRAPH FORM, EACH MONTH AND

01:08PM 21 HOW MANY SAMPLES ARE COMING FROM WALGREENS; IS THAT RIGHT?

01:08PM 22 A. YEAH. I MEAN, IT LOOKS LIKE THERE'S FOUR DIFFERENT

01:09PM 23 LOCATIONS, FOUR DIFFERENT STORES, TESTING --

01:09PM 24 Q. RIGHT.

01:09PM 25 A. -- JOINING OR WHATEVER YOU WANT TO -- TESTING LOCATIONS,

01:09PM 1 YEAH.

01:09PM 2 Q. RIGHT. SO BY STORE, AND AT THE BOTTOM YOU UNDERSTAND THAT

01:09PM 3 THOSE NUMBERS -- IF YOU CAN HIGHLIGHT THE VERY BOTTOM -- THOSE

01:09PM 4 ARE JUST, YOU KNOW, PARTICULAR WALGREENS STORES; RIGHT?

01:09PM 5 A. YES.

01:09PM 6 Q. AND THEN IT'S -- EACH OF THE BARS RELATE TO A PARTICULAR

01:09PM 7 STORE?

01:09PM 8 A. YES.

01:09PM 9 Q. AND THEN IT JUST SHOWS OVER THIS TIME THAT THE SAMPLE

01:09PM 10 VOLUME BY STORE IS GOING UP?

01:09PM 11 A. YES.

01:09PM 12 Q. AND THEN THE NEXT PAGE HAS AN AVERAGE WAIT TIME AT

01:09PM 13 WALGREENS STORES FOR THERANOS TESTING.

01:09PM 14 DO YOU SEE THAT?

01:09PM 15 A. YES.

01:09PM 16 Q. OKAY. THEN IF YOU GO TO THE NEXT PAGE, IT HAS A SECTION

01:09PM 17 ABOUT REDRAWS BY STORE LOCATION.

01:10PM 18 DO YOU SEE THAT?

01:10PM 19 A. YES.

01:10PM 20 Q. AND SO MR. GEE IS TRACKING THIS INFORMATION?

01:10PM 21 A. YES.

01:10PM 22 Q. AND THEN IT HAS, IF YOU GO TO TWO MORE PAGES AFTER THAT,

01:10PM 23 CLIA TRAINING.

01:10PM 24 DO YOU SEE THAT?

01:10PM 25 A. YES.



01:10PM 1 Q. AND THESE ARE JUST VARIOUS TRAINING EXERCISES THAT HAD  
01:10PM 2 GONE ON AT THERANOS?

01:10PM 3 A. YES.

01:10PM 4 Q. OKAY. AND THEN IF YOU GO TO PAGE -- THE NEXT PAGE, YOU  
01:10PM 5 SEE THERE'S A PROCESS IMPROVEMENT SECTION?

01:10PM 6 A. YES.

01:10PM 7 Q. AND THAT WAS SOMETHING THAT MR. GEE AND EVERYONE WAS  
01:10PM 8 INTERESTED IN, TO CONTINUE TO IMPROVE THE PROCESS; RIGHT?

01:10PM 9 A. YES.

01:10PM 10 Q. AND THAT WAS TRUE OF ALL ORGANIZATIONS THAT YOU'VE BEEN A  
01:10PM 11 PART OF; RIGHT?

01:10PM 12 A. CONTINUOUS QUALITY IMPROVEMENT, YES.

01:10PM 13 Q. AND THAT'S ACTUALLY A CONCEPT THAT YOU EMBRACE AS A LAB  
01:10PM 14 DIRECTOR?

01:10PM 15 A. YES, I DO.

01:10PM 16 Q. OKAY. AND THEN IF YOU SEE THE FIRST BULLET THERE, THAT'S  
01:10PM 17 "IMPROVEMENTS TO LIS."

01:11PM 18 THAT WAS ONE OF THE BULLETS THAT MR. GEE DISCUSSED?

01:11PM 19 A. YES.

01:11PM 20 Q. "PENDING LAB REVIEW, FAX CAPABILITY FROM LIS, AND CRITICAL  
01:11PM 21 REVIEW SCREEN."

01:11PM 22 DO YOU SEE THAT?

01:11PM 23 A. YES.

01:11PM 24 Q. AND SO THESE WERE SOME OF THE THINGS BEING WORKED ON;  
01:11PM 25 RIGHT?

01:11PM 1 A. YES.

01:11PM 2 Q. AND THEN IF YOU GO TO THE NEXT PAGE, YOU SEE THAT THERE'S

01:11PM 3 A QUALITY CONTROL SECTION?

01:11PM 4 A. YES.

01:11PM 5 Q. AND THAT THIS HAS, IN THE LEFT-HAND COLUMN, QUARTER 4.

01:11PM 6 DO YOU SEE THAT?

01:11PM 7 A. YES.

01:11PM 8 Q. AND THAT WOULD BE QUARTER 4 OF 2013; RIGHT?

01:11PM 9 A. YES.

01:11PM 10 Q. SO ROUGHLY THE -- WELL, NOT EVEN ROUGHLY, PRECISELY THE

01:11PM 11 LAST THREE MONTHS OF 2013; RIGHT?

01:11PM 12 A. CORRECT.

01:11PM 13 Q. AND IT SAYS HERE THERE'S 172 ASSAYS PERFORMED.

01:11PM 14 DO YOU SEE THAT?

01:11PM 15 A. YES.

01:11PM 16 Q. AND 10,192 CONTROLS WERE ANALYZED; RIGHT?

01:11PM 17 A. YES.

01:11PM 18 Q. AND .14 PERCENT CONTROLS FAILED.

01:11PM 19 DO YOU SEE THAT?

01:11PM 20 A. YES.

01:11PM 21 Q. AND THEN IF YOU GO TO Q1, PREDICATE, THE NEXT SECTION,

01:12PM 22 THEN IT SAYS -- THIS IS PREDICATE MACHINES; RIGHT?

01:12PM 23 A. YES.

01:12PM 24 Q. SO UNMODIFIED PREDICATE MACHINES?

01:12PM 25 A. CORRECT.

01:12PM 1 Q. AND THERE WERE 132 ASSAYS PERFORMED; CORRECT?

01:12PM 2 A. YES.

01:12PM 3 Q. AND 8,458 CONTROLS WERE ANALYZED; RIGHT?

01:12PM 4 A. CORRECT.

01:12PM 5 Q. AND .75 PERCENT CONTROLS FAILED; RIGHT?

01:12PM 6 A. YES.

01:12PM 7 Q. AND YOU SAID IN YOUR DIRECT TESTIMONY ON WEDNESDAY THAT ON

01:12PM 8 A BAD DAY, I THINK YOU SAID, A PREDICATE MACHINE, UNMODIFIED

01:12PM 9 PREDICATE MACHINE WOULD FAIL 2 TO 3 PERCENT OF THE TIME?

01:12PM 10 A. YES.

01:12PM 11 Q. AND SO APPARENTLY THEY'RE DOING A LITTLE BIT BETTER THAN

01:12PM 12 THAT; RIGHT?

01:12PM 13 A. YES.

01:12PM 14 Q. AND THEN FOR Q1 THERANOS, DO YOU SEE THAT?

01:12PM 15 A. YES.

01:12PM 16 Q. IT SAYS THERE ARE 52 ASSAYS PERFORMED?

01:12PM 17 A. YES.

01:12PM 18 Q. AND 3,879 CONTROLS ARE ANALYZED?

01:12PM 19 A. YES.

01:12PM 20 Q. AND 2.9 PERCENT CONTROLS FAILED?

01:12PM 21 A. I'M JUST READING ALONG WITH YOU, YEAH.

01:12PM 22 Q. RIGHT. WELL, THAT'S WHAT MR. GEE REPORTED?

01:13PM 23 A. I'M SORRY?

01:13PM 24 Q. WELL, YOU DIDN'T WRITE THIS PRESENTATION?

01:13PM 25 A. NO, NO.

01:13PM 1 Q. MR. GEE PRESENTED THE MATERIAL; RIGHT?

01:13PM 2 A. YES, YES.

01:13PM 3 Q. NOT MR. BALWANI?

01:13PM 4 A. NO.

01:13PM 5 Q. AND MR. GEE PRESENTED THIS INFORMATION; RIGHT?

01:13PM 6 A. YES.

01:13PM 7 Q. OKAY. LET'S MOVE TO A DIFFERENT TOPIC, AND THAT'S

01:13PM 8 PROFICIENCY TESTING. ALL RIGHT?

01:13PM 9 A. UH-HUH.

01:13PM 10 Q. AND YOU DISCUSSED THAT AT LENGTH IN YOUR TESTIMONY.

01:13PM 11 A. YES.

01:13PM 12 Q. OKAY. SO YOU DIDN'T -- YOU WEREN'T, I DON'T THINK, SHOWN

01:13PM 13 A DOCUMENT ON DIRECT, BUT YOU REFERRED TO A TIME WHEN SOME

01:14PM 14 PROFICIENCY TESTING MATERIAL WAS RUN ON EDISON DEVICES?

01:14PM 15 A. YES.

01:14PM 16 Q. AND I THINK YOU DESCRIBED IT AS LEFTOVER PROFICIENCY

01:14PM 17 TESTING MATERIAL?

01:14PM 18 A. YES.

01:14PM 19 Q. OKAY. AND YOU RECALL THAT WAS AN INSTANCE WHERE SOME

01:14PM 20 LEFTOVER PROFICIENCY TESTING MATERIAL THAT CAME FROM NEW YORK

01:14PM 21 STATE WAS RUN ON EDISONS; RIGHT?

01:14PM 22 A. AND API AS WELL, YES.

01:14PM 23 Q. OKAY. API AND NEW YORK STATE?

01:14PM 24 A. YES.

01:14PM 25 Q. AND THOSE WERE THE TWO OUTSIDE ORGANIZATIONS THAT SUPPLY

01:14PM 1 PROFICIENCY TESTING MATERIAL?

01:14PM 2 A. YES.

01:14PM 3 Q. RIGHT. AND I THINK YOU ALSO SAID ON DIRECT THAT FOR

01:14PM 4 TRADITIONAL PROFICIENCY TESTING, A LAB RUNS THE PROFICIENCY

01:14PM 5 TESTING SAMPLES; RIGHT?

01:14PM 6 A. YES.

01:14PM 7 Q. AND THEN GETS THE RESULTS, AND THEN THEY SEND THE RESULTS

01:14PM 8 OFF TO THE TESTING AGENCY; RIGHT?

01:14PM 9 A. CORRECT.

01:14PM 10 Q. SO IT COULD HAVE BEEN NEW YORK STATE OR API?

01:14PM 11 A. CORRECT.

01:14PM 12 Q. OR OTHERS; RIGHT?

01:14PM 13 A. CORRECT.

01:14PM 14 Q. OKAY. AND THERE'S -- THE JOB IN TRADITIONAL PROFICIENCY

01:15PM 15 TESTING OF THE TESTING AGENCY IS TO BASICALLY COMPARE THE

01:15PM 16 PROFICIENCY TEST RESULTS TO OTHER RESULTS THAT THEY GET FROM

01:15PM 17 OTHER LABORATORIES AROUND THE COUNTRY THAT ARE RUNNING THE SAME

01:15PM 18 INSTRUMENT; RIGHT?

01:15PM 19 A. CORRECT.

01:15PM 20 Q. SO IT HAS TO BE LIKE AN APPLE-TO-APPLE TYPE OF COMPARISON;

01:15PM 21 RIGHT?

01:15PM 22 A. CORRECT.

01:15PM 23 Q. AND SO IF YOU'RE RUNNING A SIEMENS IMMULITE AND YOU DO

01:15PM 24 PROFICIENCY TESTING ON THAT INSTRUMENT, THEN THE TESTING AGENCY

01:15PM 25 WOULD COMPARE THE RESULTS THAT YOU PROVIDE WITH OTHER LABS THAT

01:15PM 1 RUN THE SAME TYPE OF MATERIAL ON IMMULITES; RIGHT?

01:15PM 2 A. CORRECT.

01:15PM 3 Q. AND THAT'S SOMETIMES CALLED THE PEER GROUP; RIGHT?

01:15PM 4 A. CORRECT.

01:15PM 5 Q. BUT IN OTHER SITUATIONS THERE IS NOT A PEER GROUP; RIGHT?

01:15PM 6 A. CORRECT.

01:15PM 7 Q. BECAUSE THERE'S SOME TYPE OF NOVEL TECHNOLOGY AT WORK;

01:15PM 8 RIGHT?

01:15PM 9 A. SO I THINK FOR CAP, IF THERE ARE TEN OR FEWER USERS, THEY

01:16PM 10 WON'T COMPARE YOU AGAINST THOSE PEERS BECAUSE THERE'S JUST NOT

01:16PM 11 ENOUGH PEOPLE.

01:16PM 12 Q. RIGHT. AND IN THE CASE OF EDISON DEVICES, THERE WERE NO

01:16PM 13 OTHER LABS AS YOU UNDERSTOOD; RIGHT?

01:16PM 14 A. CORRECT.

01:16PM 15 Q. AND IN THE CASE OF MODIFIED PREDICATES, THERE WERE NO

01:16PM 16 OTHER LABS; RIGHT?

01:16PM 17 A. CORRECT.

01:16PM 18 Q. AND THE -- I THINK YOU SAID THIS ON DIRECT, BUT THE

01:16PM 19 SOLUTION TO THAT LACK OF PEER GROUP ISSUE IS TO DO A DIFFERENT

01:16PM 20 FORM OF PROFICIENCY TESTING CALLED AAP; RIGHT?

01:16PM 21 A. CORRECT.

01:16PM 22 Q. AND THAT STANDS FOR ALTERNATIVE ASSESSMENT PROCEDURE;

01:16PM 23 RIGHT?

01:16PM 24 A. CORRECT.

01:16PM 25 Q. OKAY. AND YOU RECOGNIZED THAT THAT WAS THE CORRECT WAY TO

01:16PM 1 DO THINGS FOR SOMETHING LIKE AN EDISON THAT DIDN'T HAVE A PEER  
01:16PM 2 GROUP; RIGHT?

01:16PM 3 A. YES.

01:16PM 4 Q. AND IT DOESN'T MEAN THAT YOU CAN'T RUN THE INSTRUMENT, IT  
01:16PM 5 JUST MEANS YOU HAVE TO DO A DIFFERENT TYPE OF PROFICIENCY  
01:16PM 6 TESTING?

01:16PM 7 A. CORRECT.

01:16PM 8 Q. OKAY. AND THIS WAS SOMETHING THAT WAS RECOGNIZED PRETTY  
01:16PM 9 EARLY ON AT THERANOS?

01:16PM 10 A. YES.

01:16PM 11 Q. IN FACT, I THINK WE SAW IN AN EXHIBIT THAT WAS DATED  
01:16PM 12 BEFORE YOUR TIME, IN 2011, WHERE THERE WAS A SECTION ON THE  
01:17PM 13 NEED TO DO AAP; RIGHT?

01:17PM 14 A. YES.

01:17PM 15 Q. OKAY. AND THE AAP THAT WAS AT LEAST IN THE STANDARD  
01:17PM 16 OPERATING PROCEDURE AT THERANOS, AND WE'LL GET TO THAT, BUT  
01:17PM 17 IT'S NOT COMPARING THERANOS RESULTS TO A PEER GROUP OF OTHER  
01:17PM 18 LABORATORIES; RIGHT?

01:17PM 19 A. NO, IT IS NOT.

01:17PM 20 Q. IT IS ACTUALLY TAKING HUMAN BLOOD SAMPLES THAT ARE  
01:17PM 21 OBTAINED FROM EMPLOYEES AT THERANOS AND COMPARING THE RESULTS  
01:17PM 22 OF THE ACTUAL HUMAN BLOOD SAMPLES ON EDISON RUNS VERSUS  
01:17PM 23 PREDICATE UNMODIFIED RUNS; RIGHT?

01:17PM 24 A. YES, THAT WOULD HAVE BEEN ONE WAY TO DO THE AAP. I'D HAVE  
01:17PM 25 TO REFRESH MY MEMORY AS TO EXACTLY WHAT THE DOCUMENT SAID, BUT

01:17PM 1 I THINK THAT'S CORRECT.

01:17PM 2 Q. OKAY. AND I'LL SHOW IT TO YOU IN A FEW MINUTES,

01:17PM 3 DR. ROSENDORFF. THANK YOU.

01:17PM 4 A. YEAH.

01:17PM 5 Q. BUT LET'S JUST GO BACK TO THE SUMMER OF 2013 AND SHOW YOU

01:17PM 6 EXHIBIT 13905.

01:18PM 7 AND DO YOU HAVE THAT IN FRONT OF YOU?

01:18PM 8 A. YES.

01:18PM 9 Q. AND THIS IS AN EMAIL FROM SYLVIA CHANG.

01:18PM 10 DO YOU SEE THAT?

01:18PM 11 A. MAY I BE EXCUSED FOR A FEW MINUTES TO GO TO THE RESTROOM?

01:18PM 12 THE COURT: YES. OF COURSE. LET'S TAKE A BRIEF

01:18PM 13 BREAK, LADIES AND GENTLEMEN, ABOUT SEVEN MINUTES, PLEASE.

01:18PM 14 (RECESS FROM 1:18 P.M. UNTIL 1:29 P.M.)

01:29PM 15 THE COURT: THANK YOU. WE'RE BACK ON THE RECORD.

01:29PM 16 ALL PARTIES PREVIOUSLY PRESENT ARE PRESENT AGAIN.

01:29PM 17 MR. COOPERSMITH.

01:29PM 18 MR. COOPERSMITH: THANK YOU, YOUR HONOR.

01:29PM 19 Q. OKAY. SO BEFORE THE BREAK, DR. ROSENDORFF, WE WERE

01:29PM 20 TALKING ABOUT PROFICIENCY TESTING.

01:29PM 21 A. YES.

01:29PM 22 Q. AND A FORM OF PROFICIENCY TESTING CALLED AAP; RIGHT?

01:29PM 23 A. YES.

01:29PM 24 Q. OKAY. SO WE WERE ABOUT TO GO OVER EXHIBIT 13905.

01:29PM 25 DO YOU STILL SEE THAT?



01:29PM 1 A. YES.

01:30PM 2 Q. AND THAT IS AN EMAIL FROM A SYLVIA CHANG TO MR. BALWANI

01:30PM 3 WITH A COPY TO YOURSELF AND KERRY ELENITOBA-JOHNSON.

01:30PM 4 DO YOU SEE THAT?

01:30PM 5 A. YES.

01:30PM 6 Q. AND ALSO HODA ALAMDAR; RIGHT?

01:30PM 7 A. YES.

01:30PM 8 Q. AND SYLVIA CHANG WAS A LAB SCIENTIST AT THERANOS?

01:30PM 9 A. YES.

01:30PM 10 Q. AND IN THIS CASE SHE WAS SENDING AN EMAIL ABOUT THE

01:30PM 11 HANDLING AND SCHEDULING AND SUBMITTING OF THE PROFICIENCY

01:30PM 12 SAMPLES?

01:30PM 13 A. YES.

01:30PM 14 Q. AND THIS WAS ON JULY 27TH, 2013?

01:30PM 15 A. YES.

01:30PM 16 Q. AND THIS WAS PRIOR TO THE WALGREENS LAUNCH; CORRECT?

01:30PM 17 A. CORRECT.

01:30PM 18 MR. COOPERSMITH: YOUR HONOR, WE OFFER 13905.

01:30PM 19 MR. BOSTIC: NO OBJECTION.

01:30PM 20 THE COURT: IT'S ADMITTED. IT MAY BE PUBLISHED.

01:30PM 21 (DEFENDANT'S EXHIBIT 13905 WAS RECEIVED IN EVIDENCE.)

01:30PM 22 BY MR. COOPERSMITH:

01:30PM 23 Q. SO LOOKING AT THE DOCUMENT, DR. ROSENDORFF, AND IT HAS THE

01:30PM 24 DATE THAT I'VE DESCRIBED, BUT YOU SEE IT SAYS, "SUNNY," THIS IS

01:30PM 25 MS. CHANG WRITING, "PER YOUR REQUEST, HERE ARE THE DETAIL FOR

01:30PM 1 HANDLING, SCHEDULING AND SUBMITTING PROFICIENCY SAMPLES."

01:30PM 2 DO YOU SEE THAT?

01:31PM 3 A. YES.

01:31PM 4 Q. SO SHE SEEMS TO BE RESPONDING TO MR. BALWANI; CORRECT?

01:31PM 5 A. YES.

01:31PM 6 Q. AND THEN SHE SAYS SHE'S ATTACHING A STANDARD OPERATING

01:31PM 7 PROCEDURE FOR REFERENCE.

01:31PM 8 DO YOU SEE THAT?

01:31PM 9 A. YES.

01:31PM 10 Q. AND THEN ATTACHED TO THE EXHIBIT, TO THE EMAIL, THERE'S

01:31PM 11 SEVERAL PAGES OF THE DRAFT STANDARD OPERATING PROCEDURE?

01:31PM 12 A. YES.

01:31PM 13 Q. AND THIS WAS FOR YOUR REVIEW; CORRECT?

01:31PM 14 A. YES.

01:31PM 15 Q. AND IT LOOKS LIKE THE DOCUMENT THAT WAS SENT HAS A

01:31PM 16 DOCUMENT NUMBER AT THE TOP.

01:31PM 17 DO YOU SEE THAT?

01:31PM 18 A. YES.

01:31PM 19 Q. AND IT HAS A REVISION: C?

01:31PM 20 A. YES.

01:31PM 21 Q. AND THEN BELOW THAT THERE'S AN EFFECTIVE DATE; RIGHT?

01:31PM 22 A. YES.

01:31PM 23 Q. AND THE EFFECTIVE DATE PRINTED ON THIS DRAFT DOCUMENT IS

01:31PM 24 ACTUALLY BEFORE YOUR TIME AT THERANOS; RIGHT?

01:31PM 25 A. CORRECT.

01:31PM 1 Q. OKAY. AND IT DOESN'T EVEN HAVE A SPACE FOR A SIGNATURE  
01:31PM 2 BECAUSE YOU WEREN'T THERE AT THE TIME; RIGHT?

01:31PM 3 A. CORRECT.

01:31PM 4 Q. BUT THEN IF YOU GO TO THE NEXT -- I'M SORRY. IT'S PAGE 3  
01:31PM 5 OF 6, AND IT HAS A SECTION ON RESPONSIBILITIES.  
01:32PM 6 DO YOU SEE THAT?

01:32PM 7 A. YES.

01:32PM 8 Q. AND IT SAYS, "LABORATORY TESTING PERSONNEL ARE RESPONSIBLE  
01:32PM 9 FOR THE FOLLOWING," AND THEN THERE'S THREE SUBSECTIONS.  
01:32PM 10 "RECEIVING AND PROCESSING THE PROFICIENCY TESTING  
01:32PM 11 SAMPLES."

01:32PM 12 A. YES.

01:32PM 13 Q. "REPORTING THE RESULTS TO THE TS OR DESIGNEE FOR  
01:32PM 14 EVALUATION."  
01:32PM 15 RIGHT?

01:32PM 16 A. YES.

01:32PM 17 Q. AND THEN, "COMPLETING APPLICABLE FIELDS ON A PARTICULAR  
01:32PM 18 FORM."  
01:32PM 19 RIGHT?

01:32PM 20 A. YES.

01:32PM 21 Q. AND THEN IF YOU GO TO PAGE 4 OF 6.  
01:32PM 22 THEN THERE'S A SECTION ON PROFICIENCY TESTING FOR  
01:32PM 23 COMMERCIAL PT; RIGHT?

01:32PM 24 A. YES.

01:32PM 25 Q. AND SO THIS WOULD BE FOR THE UNMODIFIED PREDICATES; RIGHT?

01:32PM 1 A. CORRECT.

01:32PM 2 Q. AND THEN IF YOU GO TO THE NEXT PAGE, 5.3 -- SECTION 5.3.

01:32PM 3 THERE'S A SECTION ABOUT ALTERNATIVE ASSESSMENT PROCEDURE?

01:32PM 4 A. YES.

01:32PM 5 Q. AND THAT WOULD APPLY "FOR NON-CMS REGULATED TESTS OR THOSE

01:33PM 6 WHICH LACK FDA CLEARANCE, COMMERCIAL OR EXTERNAL PT PROGRAMS

01:33PM 7 MAY NOT BE AVAILABLE."

01:33PM 8 DO YOU SEE THAT?

01:33PM 9 A. YES.

01:33PM 10 Q. AND THAT'S THE SAME THING THAT WE WERE JUST TALKING ABOUT

01:33PM 11 WITH AAP; RIGHT?

01:33PM 12 A. YES.

01:33PM 13 Q. OKAY. LET'S PUT THAT ASIDE AND GO TO EXHIBIT 9939.

01:33PM 14 AND THIS HAS BEEN PREVIOUSLY ADMITTED, YOUR HONOR.

01:33PM 15 THE COURT: THANK YOU.

01:33PM 16 BY MR. COOPERSMITH:

01:33PM 17 Q. YOU SEE THIS IS A STANDARD OPERATING PROCEDURE, AND THIS

01:33PM 18 ONE ACTUALLY HAS YOUR NAME ON IT?

01:33PM 19 A. YES.

01:33PM 20 Q. AND THE DATE IS DECEMBER 2ND, 2013?

01:33PM 21 A. YES.

01:33PM 22 Q. AND ACCORDING TO THE TOP, IT'S PROFICIENCY TESTING FOR

01:33PM 23 THERANOS LAB-DEVELOPED TESTS FOR EDISON 3.5?

01:33PM 24 A. YES.

01:33PM 25 Q. OKAY. SO THIS IS THE PROCEDURE THAT YOU ACTUALLY PUT IN

01:33PM 1 PLACE IN EARLY DECEMBER OF 2013 FOR PROFICIENCY TESTING ON THE

01:33PM 2 ACTUAL THERANOS EDISON DEVICE; RIGHT?

01:34PM 3 A. YES.

01:34PM 4 Q. OKAY. IF WE GO TO --

01:34PM 5 SORRY ABOUT THAT. GO TO PAGE 3 OF 8. YOU SEE IT HAS THE

01:34PM 6 PURPOSE AT THE TOP?

01:34PM 7 A. YES.

01:34PM 8 Q. AND THE PURPOSE OF THIS PROPOSAL IS "TO DEVISE AN

01:34PM 9 ALTERNATIVE ASSESSMENT PROPOSED (AAP) FOR LABORATORY DEVELOPED

01:34PM 10 TESTS ON THE EDISON 3.5 IMMUNOASSAY INSTRUMENT."

01:35PM 11 A. YES.

01:35PM 12 Q. AND THEN IF YOU GO DOWN UNDER RESPONSIBILITIES, YOU SEE IT

01:35PM 13 SAYS, "IT IS THE RESPONSIBILITY OF THE TECHNICAL SUPERVISOR TO

01:35PM 14 ENSURE THAT THE ALTERNATIVE ASSESSMENT PROCEDURE IS CONDUCTED

01:35PM 15 AT LEAST" TWICE A -- "TWICE TIMES A YEAR FOR ALL 4 ANALYTES."

01:35PM 16 DO YOU SEE THAT?

01:35PM 17 A. YES.

01:35PM 18 Q. AND THEN AT 3.3, THE FIRST SUBSECTION THERE, 3.3.1, IT

01:35PM 19 SAYS, "THE TECHNICAL SUPERVISOR IS RESPONSIBLE FOR MAKING SURE

01:35PM 20 THAT PROFICIENCY TESTING SAMPLES ARE IDENTIFIED AND PREPARED

01:35PM 21 FOR THE LABORATORY."

01:35PM 22 AND THEN IT GOES ON, IF YOU GO TO THE NEXT PAGE, TO DEFINE

01:35PM 23 WHAT THE RESPONSIBILITIES OF THE TECHNICAL SUPERVISOR ARE;

01:35PM 24 RIGHT?

01:35PM 25 A. YES.

01:35PM 1 Q. AND THEN ON 3.4 IT SAYS, "THE LABORATORY DIRECTOR IS  
01:35PM 2 RESPONSIBLE FOR THE FOLLOWING:  
01:35PM 3 "REVIEWING AND APPROVING EACH PT TESTING EVENT  
01:35PM 4 DOCUMENTATION."  
01:35PM 5 DO YOU SEE THAT?  
01:35PM 6 A. YES.  
01:35PM 7 Q. AND THIS IS THE PROCEDURE THAT YOU PUT IN PLACE?  
01:35PM 8 A. YES.  
01:35PM 9 Q. AND YOU ACTUALLY DEFINED YOUR OWN RESPONSIBILITIES THERE  
01:35PM 10 IN 3.4?  
01:35PM 11 A. YES.  
01:35PM 12 Q. OKAY. NOBODY ELSE WAS RESPONSIBLE FOR THAT 3.4.1 ITEM?  
01:36PM 13 A. NO.  
01:36PM 14 Q. OKAY. AND THEN IF YOU GO TO PAGE 5, I THINK I MAY HAVE  
01:36PM 15 REFERENCED THIS BEFORE, BUT DO YOU SEE THAT THERE'S A  
01:36PM 16 PROCEDURE?  
01:36PM 17 A. YES.  
01:36PM 18 Q. AND THIS DEFINES ACTUALLY HOW THE AAP PROCEDURE WOULD  
01:36PM 19 WORK; RIGHT?  
01:36PM 20 A. YES.  
01:36PM 21 Q. AND IT'S "OBTAINED 5 VENOUS CLINICAL SAMPLES FROM AN  
01:36PM 22 IN-HOUSE COLLECTION."  
01:36PM 23 A. RIGHT.  
01:36PM 24 Q. THAT MEANS FROM EMPLOYEE?  
01:36PM 25 A. YES.

01:36PM 1 Q. AND THAT MEANS YOU'RE COLLECTING REALLY HUMAN BLOOD;  
01:36PM 2 RIGHT?

01:36PM 3 A. YES.

01:36PM 4 Q. AND NOT USING PROFICIENCY TESTING MATERIAL THAT IS  
01:36PM 5 SUPPLIED BY AN OUTSIDE TESTING LAB; RIGHT?

01:36PM 6 A. CORRECT.

01:36PM 7 Q. AND THAT'S BECAUSE THERE WAS AT LEAST A CONCERN THAT USING  
01:36PM 8 THE PT MATERIAL FROM OUTSIDE TESTING SERVICES WOULD CREATE  
01:36PM 9 SOMETHING CALLED A MATRIX EFFECT.

01:36PM 10 DO YOU REMEMBER THAT?

01:36PM 11 A. I THINK DANIEL YOUNG MENTIONED THAT IN ONE OF HIS EMAILS.

01:36PM 12 Q. OKAY. DANIEL YOUNG BELIEVED -- WELL, DO YOU RECALL  
01:36PM 13 DANIEL YOUNG INFORMED YOU THAT HE THOUGHT THERE WAS SOMETHING  
01:37PM 14 CALLED THE MATRIX EFFECT; RIGHT?

01:37PM 15 A. I THINK SO, YES.

01:37PM 16 Q. AND THAT WOULD PRECLUDE THE USE OF OUTSIDE TESTING  
01:37PM 17 MATERIAL ON THERANOS INSTRUMENTS; RIGHT?

01:37PM 18 A. THAT WAS HIS POSITION, YES.

01:37PM 19 Q. RIGHT. BUT YOU INSTITUTED A PROCEDURE, WHICH WE'RE NOW  
01:37PM 20 LOOKING AT, THAT ACTUALLY PUT IN PLACE A PROCEDURE THAT ADOPTED  
01:37PM 21 DANIEL YOUNG'S VIEW OF THAT SITUATION; RIGHT?

01:37PM 22 A. I'M JUST NOT SURE WHEN DANIEL'S EMAIL CAME THROUGH VERSUS  
01:37PM 23 THE DATE OF THIS SOP, BUT I RECALL DANIEL SENDING AN EMAIL  
01:37PM 24 TALKING ABOUT THE MATRIX EFFECT.

01:37PM 25 Q. OKAY.

01:37PM 1 A. AND THEN I DON'T KNOW WHERE THAT STANDS IN RELATION TO  
01:37PM 2 THIS SOP.

01:37PM 3 Q. BUT DANIEL YOUNG'S RECOMMENDATION ABOUT THE MATRIX EFFECT  
01:37PM 4 WAS, BECAUSE OF THAT, THAT THIS COMPANY SHOULD DO THIS AAP  
01:37PM 5 PROCEDURE; RIGHT?

01:37PM 6 A. THAT WAS HIS POSITION, YES.

01:38PM 7 Q. AND THEN YOU SIGNED THE PROCEDURE WE'RE NOW LOOKING AT  
01:38PM 8 THAT IMPLEMENTED THAT EXACT RECOMMENDATION; RIGHT?

01:38PM 9 A. YES.

01:38PM 10 Q. OKAY. NOW, IF YOU GO TO THE BOTTOM -- WELL, STICK WITH  
01:38PM 11 THAT SAME SECTION.

01:38PM 12 DO YOU SEE 4.6?

01:38PM 13 A. YES.

01:38PM 14 Q. IT SAYS, "CALCULATE THE AVERAGE BIAS OF THE THERANOS LDT  
01:38PM 15 TEST AS FOLLOWS," AND THEN IT HAS AN EQUATION AFTER THAT?

01:38PM 16 A. YES.

01:38PM 17 Q. AND AVERAGE BIAS MEANS THAT THERE MIGHT BE A DIFFERENCE  
01:38PM 18 BETWEEN THE VALUE THAT THE PREDICATE MACHINE OBTAINS VERSUS THE  
01:38PM 19 THERANOS DEVICE; RIGHT?

01:38PM 20 A. SORRY, SAY AGAIN.

01:38PM 21 Q. AVERAGE BIAS, THAT REFERS TO HOW THERE MIGHT BE A  
01:38PM 22 DIFFERENCE IN THE VALUE ACHIEVED OR THE RESULT IN THE  
01:38PM 23 PROFICIENCY TESTING EXPERIMENT FROM THE PREDICATE DEVICE VERSUS  
01:38PM 24 THE THERANOS DEVICE; RIGHT?

01:38PM 25 A. YES.



01:38PM 1 Q. AND THAT IF THAT BIAS IS A CONSISTENT BIAS, IT MIGHT BE  
01:38PM 2 POSSIBLE TO APPLY SOMETHING CALLED A BIAS CORRECTION; RIGHT?

01:39PM 3 A. YES.

01:39PM 4 Q. AND THAT WOULD ADJUST FOR THAT ISSUE; RIGHT?

01:39PM 5 A. YES.

01:39PM 6 Q. OKAY. AND THAT WAS SOMETHING THAT DANIEL YOUNG WORKED A  
01:39PM 7 LOT AND SPENT A LOT OF TIME ON?

01:39PM 8 A. THE BIAS CORRECTION WAS DONE ON THE IMMULITE WITH DILUTED  
01:39PM 9 BLOOD SAMPLES TO TRY TO REDUCE THE, YOU KNOW, THE BIAS BETWEEN  
01:39PM 10 THE TWO METHODS, YEAH.

01:39PM 11 Q. OKAY.

01:39PM 12 A. BUT IT DOESN'T REALLY PERTAIN TO PROFICIENCY TESTING.

01:39PM 13 Q. WELL, IN THE SECTION THAT WE'RE LOOKING AT, ONE OF THE  
01:39PM 14 THINGS THAT HAS TO BE DONE AS A STEP IN THE AAP PROCEDURE IS TO  
01:39PM 15 CALCULATE THE AVERAGE BIAS OF THE THERANOS --

01:39PM 16 A. CORRECT. CORRECT.

01:39PM 17 Q. AND JUST TO STEP BACK TO MAYBE A MORE BASIC POINT, DO YOU  
01:39PM 18 SEE 4.3 AND 4.4?

01:39PM 19 A. YES.

01:39PM 20 Q. AND THIS IS ACTUALLY WHAT IS DEFINING THE AAP TEST; RIGHT?  
01:39PM 21 YOU'RE SPLITTING THE SAMPLES INTO TWO DIFFERENT CONTAINERS;  
01:39PM 22 RIGHT?

01:39PM 23 A. YES.

01:39PM 24 Q. AND THOSE ARE CALLED ALIQUOTS; RIGHT?

01:39PM 25 A. CORRECT.

01:39PM 1 Q. AND THOSE TWO DIFFERENT ALIQUOTS OR CONTAINERS, ONE IS RUN  
01:40PM 2 ON A PREDICATE AND ONE IS RUN ON A THERANOS DEVICE; RIGHT?  
01:40PM 3 A. CORRECT.  
01:40PM 4 Q. AND THE IDEA IS TO COMPARE THE RESULTS?  
01:40PM 5 A. CORRECT.  
01:40PM 6 Q. AND YOU SEE BELOW THAT, THERE'S ACCEPTANCE CRITERIA IN THE  
01:40PM 7 NEXT SECTION?  
01:40PM 8 A. YES.  
01:40PM 9 Q. AND THIS DEFINES WHAT IS REQUIRED FOR THE EXPERIMENT TO BE  
01:40PM 10 DEEMED -- TO PASS; RIGHT?  
01:40PM 11 A. YES.  
01:40PM 12 Q. OKAY. AND THEN ON 5.3, "IF AN ANALYTE FAILS A PROFICIENCY  
01:40PM 13 EVENT, CORRECTIVE ACTIONS WILL BE IMPLEMENTED, ACCORDING TO  
01:40PM 14 ANOTHER PROCEDURE."  
01:40PM 15 DO YOU SEE THAT?  
01:40PM 16 A. YES.  
01:40PM 17 Q. AND NOW, IF YOU GO TO THE NEXT PAGE, PAGE 6, YOU SEE THAT  
01:40PM 18 THERE'S A SECTION CALLED REFERENCES?  
01:40PM 19 A. YES.  
01:40PM 20 Q. AND ONE OF THE REFERENCES -- WELL, THE FIRST REFERENCE ON  
01:40PM 21 7.1 IS TO A PARTICULAR CMS REGULATION; RIGHT?  
01:40PM 22 A. YES.  
01:40PM 23 Q. AND THEN THERE ARE OTHER REFERENCES TO CMS REGULATIONS;  
01:41PM 24 RIGHT?  
01:41PM 25 A. YES.

01:41PM 1 Q. AND THOSE ARE THE ONES THAT ARE CALLED CFR'S; RIGHT?

01:41PM 2 A. CORRECT.

01:41PM 3 Q. AND CODE OF FEDERAL REGULATION?

01:41PM 4 A. CORRECT.

01:41PM 5 Q. AND THEN THERE'S TWO OTHER REFERENCES TO CLSI; RIGHT?

01:41PM 6 A. YES.

01:41PM 7 Q. AND WE TALKED ABOUT THAT EARLIER?

01:41PM 8 A. YES.

01:41PM 9 Q. AND IS THAT THAT AUTHORITATIVE GROUP IN PENNSYLVANIA THAT  
01:41PM 10 ISSUES GUIDANCE FOR LABORATORIES; RIGHT?

01:41PM 11 A. YES.

01:41PM 12 Q. IN THIS CASE WHEN YOU WERE MAKING THIS PROCEDURE, YOU  
01:41PM 13 ACTUALLY REFERENCED THE CLSI, OR TWO OF THE CLSI GUIDELINES;  
01:41PM 14 RIGHT?

01:41PM 15 A. YES.

01:41PM 16 Q. AND LET'S LOOK AT ONE OF THEM, AND THAT'S GP 29. AND IF  
01:41PM 17 WE CAN TURN -- OR JUST LOOK AT THE SCREEN, EXHIBIT 20418.

01:41PM 18 OKAY. DO YOU SEE THAT 20418 IS THE PARTICULAR CLSI  
01:42PM 19 GUIDELINE THAT WAS REFERENCED IN YOUR PROTOCOL?

01:42PM 20 A. YES.

01:42PM 21 Q. AND YOU REVIEW THIS IN ORDER TO DEVISE THE POLICY; RIGHT?

01:42PM 22 A. YES.

01:42PM 23 Q. AND SO THIS WAS ONE OF THE CASES WHERE YOU WERE RELYING ON  
01:42PM 24 THE CLSI MATERIAL TO INFORM WHAT THE PROCEDURE SHOULD BE AT  
01:42PM 25 THERANOS?

01:42PM 1

A. YES.

01:42PM 2

MR. COOPERSMITH: YOUR HONOR, WE OFFER 20418.

01:42PM 3

MR. BOSTIC: YOUR HONOR, 401, 403.

01:42PM 4

THE COURT: I'LL SUSTAIN THE OBJECTION WITHOUT

01:42PM 5

ANYTHING FURTHER.

01:42PM 6

I DO THINK THE PROBATIVE VALUE IS OUTWEIGHED BY

01:42PM 7

SUBSTANTIAL PREJUDICE, SO I'LL SUSTAIN THE OBJECTION.

01:42PM 8

BY MR. COOPERSMITH:

01:42PM 9

Q. OKAY. WITHOUT SHOWING IT TO THE JURY, DR. ROSENDORFF,

01:42PM 10

I'LL ASK YOU SOME QUESTIONS ABOUT THIS, AND WE'LL SEE WHAT YOU

01:42PM 11

REMEMBER.

01:42PM 12

SO AS I WAS ASKING YOU, CLSI WAS THIS GROUP THAT PROVIDED

01:42PM 13

GUIDANCE; RIGHT?

01:42PM 14

A. YES.

01:43PM 15

Q. AND IN THIS CASE THEY PROVIDED GUIDANCE ON THE ALTERNATIVE

01:43PM 16

ASSESSMENT PROCEDURE; RIGHT?

01:43PM 17

A. YES.

01:43PM 18

Q. AND THAT YOU REVIEWED THIS TO HELP YOU DEVISE YOUR

01:43PM 19

PROTOCOL; RIGHT?

01:43PM 20

A. YES.

01:43PM 21

Q. AND DO YOU REMEMBER GENERALLY THAT THE CLSI GUIDANCE THAT

01:43PM 22

YOU REFERENCED ACTUALLY DID HAVE INFORMATION ABOUT HOW AAP

01:43PM 23

COULD BE IMPLEMENTED AND SO FORTH?

01:43PM 24

A. I, I REALLY DON'T REMEMBER MUCH ABOUT THIS PARTICULAR

01:43PM 25

DOCUMENT, SIR.

01:43PM 1 Q. OKAY. BUT AT THE TIME -- IT'S NOW SEVERAL YEARS AGO?

01:43PM 2 A. YEAH.

01:43PM 3 Q. AT THE TIME, THAT'S SOMETHING THAT YOU REFERRED TO AS A  
01:43PM 4 DOCUMENT TO HELP INFORM WHAT YOU DID; RIGHT?

01:43PM 5 A. YES, IT APPEARS.

01:43PM 6 Q. OKAY. IF YOU COULD TAKE A LOOK AT EXHIBIT 9940.

01:44PM 7 THIS ONE IS NOT ADMITTED YET, BUT YOU CAN TAKE A LOOK AT  
01:44PM 8 IT.

01:44PM 9 THIS IS A STANDARD OPERATING PROCEDURE AT THERANOS FOR  
01:44PM 10 PROFICIENCY TESTING FOR THERANOS LAB DEVELOPED TESTS.

01:44PM 11 DO YOU SEE THAT?

01:44PM 12 A. YES.

01:44PM 13 Q. AND AGAIN, IT HAS YOUR SIGNATURE ON IT?

01:44PM 14 A. YES.

01:44PM 15 Q. AND THAT'S DECEMBER 2ND, 2013?

01:44PM 16 A. YES.

01:44PM 17 Q. THAT'S THE SAME DATE AS THE OTHER PROCEDURE THAT WE JUST  
01:44PM 18 LOOKED AT?

01:44PM 19 A. YES.

01:44PM 20 Q. AND THIS PROCEDURE DEALS WITH DOING PROFICIENCY TESTING ON  
01:44PM 21 MODIFIED PREDICATES; RIGHT?

01:44PM 22 A. YES, IT APPEARS.

01:44PM 23 JUST TO BE -- JUST TO CLARIFY, YOU KNOW, NOT ALL OF THE  
01:44PM 24 THERANOS LDT'S WERE ON MODIFIED FDA APPROVED DEVICES.

01:44PM 25 Q. WELL, SOME OF THEM ARE ON EDISON; RIGHT?

01:44PM 1 A. WELL, YEAH, SOME OF THE EDISON. THE CBC'S WERE DONE ON  
01:45PM 2 BECTON DICKINSON FLOW CYTOMETRY.

01:45PM 3 Q. FOR SOME TIME THAT YOU WERE THERE?

01:45PM 4 A. YES.

01:45PM 5 Q. AND IF YOU GO TO PAGE 3 OF THE DOCUMENT. YOU SEE THERE'S  
01:45PM 6 A PURPOSE.

01:45PM 7 AND WITHOUT READING IT TO THE JURY, DO YOU SEE WHAT  
01:45PM 8 SECTION 1.1 SAYS?

01:45PM 9 A. YES.

01:45PM 10 Q. AND THAT CLARIFIES WHAT THIS PROTOCOL WAS?

01:45PM 11 A. YES.

01:45PM 12 MR. COOPERSMITH: OKAY. YOUR HONOR, WE OFFER  
01:45PM 13 EXHIBIT 9940.

01:45PM 14 MR. BOSTIC: NO OBJECTION.

01:45PM 15 THE COURT: IT'S ADMITTED. IT MAY BE PUBLISHED.

01:45PM 16 (DEFENDANT'S EXHIBIT 9940 WAS RECEIVED IN EVIDENCE.)  
01:45PM 17 BY MR. COOPERSMITH:

01:45PM 18 Q. AND LET'S JUST GO LOOK AT THAT SAME THING THAT I  
01:45PM 19 MENTIONED, SECTION 1.1.

01:45PM 20 SO THE PURPOSE HERE IS TO DEVISE AN ALTERNATIVE ASSESSMENT  
01:45PM 21 PROTOCOL FOR LABORATORY DEVELOPED TESTS ON THE ADVIA-1800  
01:45PM 22 CHEMISTRY ANALYZER; RIGHT?

01:45PM 23 A. YES.

01:45PM 24 Q. AND SO SPECIFIC TO THAT PARTICULAR DEVICE; RIGHT?

01:45PM 25 A. YES.

01:45PM 1 Q. THAT THERANOS MODIFIED?

01:45PM 2 A. YES.

01:45PM 3 Q. AND THIS WAS NECESSARY BECAUSE THERANOS HAD MODIFIED IT;

01:46PM 4 RIGHT?

01:46PM 5 A. CORRECT.

01:46PM 6 Q. AND SO WITHOUT GOING THROUGH THE REST OF THE DOCUMENT,

01:46PM 7 THIS IS BASICALLY THE COUNTERPART OF THE PROCEDURE THAT WE SAW

01:46PM 8 ON THE EDISON; RIGHT?

01:46PM 9 A. YES.

01:46PM 10 Q. AND IT DOCUMENTS THE SAME PROCEDURE THAT IS NECESSARY FOR

01:46PM 11 A MODIFIED PREDICATE AS OPPOSED TO AN EDISON; RIGHT?

01:46PM 12 A. I DON'T REMEMBER IF THE PROCEDURE IS THE SAME OR NOT.

01:46PM 13 Q. OKAY. WELL, LET'S JUST LOOK AT ONE THING --

01:46PM 14 A. OKAY.

01:46PM 15 Q. AND IT'S PAGE 5, SECTION 4, PROCEDURE.

01:46PM 16 A. I SEE.

01:46PM 17 Q. DO YOU SEE THERE'S THE SAME PROCEDURE THERE?

01:46PM 18 A. YES.

01:46PM 19 Q. OKAY. OKAY. DR. ROSENDORFF, LET'S GO BACK TO THAT

01:47PM 20 PROFICIENCY TESTING EXPERIMENT THAT WE DISCUSSED, AND I KNOW

01:47PM 21 YOU DISCUSSED IT WITH MR. BOSTIC AS WELL.

01:47PM 22 AND THAT'S THE EXPERIMENT WITH THE NEW YORK STATE AND API

01:47PM 23 SAMPLES THAT WERE DONE ON EDISON; RIGHT?

01:47PM 24 A. YES.

01:47PM 25 Q. AND THOSE WERE THE OUTSIDE PROFICIENCY TESTING MATERIALS?

01:47PM 1 A. YES.

01:47PM 2 Q. AND SO THOSE WERE NOT -- RUNNING THOSE ON EDISON WAS NOT

01:47PM 3 ACCORDING TO THE PROTOCOLS AND PROCEDURE THAT YOU PUT IN PLACE

01:47PM 4 THAT WE JUST LOOKED AT?

01:47PM 5 A. NO.

01:47PM 6 Q. AND IT WAS SOMETHING OUTSIDE OF ANY SOP THAT THE COMPANY

01:47PM 7 HAD?

01:47PM 8 A. CORRECT.

01:47PM 9 Q. AND IT WAS SOMETHING THAT THE COMPANY HAD DECIDED NOT TO

01:47PM 10 DO; RIGHT?

01:47PM 11 A. CORRECT.

01:47PM 12 Q. AND THE EXPERIMENT THAT WAS RUN WITH THOSE SAMPLES,

01:47PM 13 BECAUSE IT WASN'T IN THE PROTOCOL, WOULD YOU AGREE WITH ME THAT

01:47PM 14 THAT EXPERIMENT RUNNING EDISON -- RUNNING PROFICIENCY TESTING

01:47PM 15 SAMPLES FROM NEW YORK STATE AND API ON EDISON, THE RESULTS

01:47PM 16 CANNOT BE DEEMED A FAILURE OF PROFICIENCY TESTING ON EDISON;

01:48PM 17 CORRECT?

01:48PM 18 A. NOT ACCORDING TO THE SOP, NO.

01:48PM 19 Q. OKAY. AND, IN FACT, BECAUSE IT WASN'T THE ACCEPTED

01:48PM 20 PROTOCOL FOR RUNNING PROFICIENCY ON EDISON, IT IS NOT THE CASE

01:48PM 21 THAT IT FAILED PT; CORRECT?

01:48PM 22 A. FORMALLY, NO. CORRECT.

01:48PM 23 Q. OKAY. AND THAT'S SOMETHING THAT -- WELL, I'LL WITHDRAW

01:48PM 24 THAT.

01:48PM 25 LET'S MOVE TO A DIFFERENT EXHIBIT.



01:48PM 1 AT ONE POINT DR. PANDORI DEVELOPED A POWERPOINT, RIGHT,  
01:48PM 2 THAT EXPLAINED WHAT AAP WAS ABOUT AND WHAT SHOULD HAPPEN;  
01:48PM 3 RIGHT?

01:48PM 4 A. I REMEMBER IT FROM THE HOLMES TRIAL, YEAH.

01:48PM 5 Q. OKAY. BUT YOU REMEMBER IT FROM THE TIME THAT IT HAPPENED  
01:48PM 6 AS WELL; RIGHT?

01:48PM 7 A. I THINK SO, YES, YEAH.

01:49PM 8 Q. OKAY. LET ME SEE IF I CAN FIND THAT.

01:49PM 9 LET'S LOOK AT EXHIBIT 7440.

01:49PM 10 THIS IS ALREADY IN EVIDENCE, YOUR HONOR. I THINK IT MAY  
01:49PM 11 BE UP ALREADY, BUT IF NOT, CAN WE PUBLISH IT?

01:49PM 12 THE COURT: YES, IT MAY BE PUBLISHED.

01:50PM 13 MR. COOPERSMITH: THANK YOU, YOUR HONOR.

01:50PM 14 Q. SO, DR. ROSENDORFF, WE'RE LOOKING AT EXHIBIT 7440, AND YOU  
01:50PM 15 SEE THERE'S AN EMAIL FROM DR. PANDORI TO MR. BALWANI AND TO  
01:50PM 16 YOURSELF.

01:50PM 17 DO YOU SEE THAT?

01:50PM 18 A. YES.

01:50PM 19 Q. AND HE'S ATTACHING A SLIDE SHOW HE PUT TOGETHER ABOUT AAP?

01:50PM 20 A. YES.

01:50PM 21 Q. AND YOU -- NOW THAT YOU'RE LOOKING AT -- IF YOU WANT TO  
01:50PM 22 FLIP THROUGH THE DOCUMENT, OR MAYBE WE CAN SCROLL THROUGH IT AT  
01:50PM 23 LEAST STARTING WITH THE THIRD PAGE.

01:50PM 24 YOU RECOGNIZE THIS AS THE POWERPOINT THAT DR. PANDORI PUT  
01:50PM 25 TOGETHER?

01:50PM 1 A. I DON'T -- I DON'T KNOW WHAT YOU'RE ASKING. I DON'T KNOW  
01:50PM 2 WHAT THE QUESTION IS.

01:50PM 3 Q. YOU KNOW WHAT? LET'S ASK A BETTER QUESTION.

01:50PM 4 A. OKAY.

01:50PM 5 Q. THERE'S A PAGE, AND I'M NOT SURE OF THE PAGE NUMBERS, BUT  
01:50PM 6 THE HEADING AT THE TOP SAYS THERANOS TESTS HAVE NO PEER GROUPS?

01:50PM 7 A. YES.

01:50PM 8 Q. THAT'S THE PAGE.

01:50PM 9 A. YES.

01:50PM 10 Q. AND YOU SEE IT SAYS, "NORMAL OF PT IS THEREFORE NOT  
01:51PM 11 APPROPRIATE."

01:51PM 12 DO YOU SEE THAT?

01:51PM 13 A. YES.

01:51PM 14 Q. AND THAT'S WHAT DR. PANDORI SAID IN HIS POWERPOINT?

01:51PM 15 A. YES.

01:51PM 16 Q. AND IT SAYS, "ADDITIONALLY, SYNTHETIC MATRIX OF MANY  
01:51PM 17 COMMERCIALY AVAILABLE PT SAMPLES IS NOT AN APPROPRIATE ONE FOR  
01:51PM 18 MANY THERANOS TESTS."

01:51PM 19 RIGHT?

01:51PM 20 A. YES.

01:51PM 21 Q. AND THAT'S WHAT YOU WERE SAYING BEFORE THAT DR. YOUNG  
01:51PM 22 THOUGHT; RIGHT?

01:51PM 23 A. THAT WAS HIS POSITION, YES.

01:51PM 24 Q. AND DR. PANDORI PUT THAT IN HIS POWERPOINT?

01:51PM 25 A. YES, HE DID.

01:51PM 1 Q. OKAY. WE CAN PUT THAT ASIDE.

01:51PM 2 WELL, LET'S TAKE A LOOK AT EXHIBIT 12846, WHICH IS NOT IN

01:51PM 3 EVIDENCE.

01:52PM 4 LOOKING AT EXHIBIT 12846, DO YOU SEE THAT THIS IS AN EMAIL

01:52PM 5 STRING AMONG YOU AND CHRISTIAN HOLMES AND ALSO ANAM KHAN?

01:52PM 6 DO YOU SEE THAT?

01:52PM 7 A. YES.

01:52PM 8 Q. AND THIS IS FROM BASICALLY MID-OCTOBER OF 2014?

01:52PM 9 A. YES.

01:52PM 10 Q. OKAY. AND IT RELATES TO A PARTICULAR INQUIRY FROM A

01:52PM 11 PHYSICIAN; IS THAT RIGHT?

01:52PM 12 A. YES.

01:52PM 13 Q. AND THAT WAS A DR. KRAL?

01:52PM 14 A. YES.

01:52PM 15 Q. AND YOU WERE CORRESPONDING WITH ANAM KHAN AND

01:52PM 16 CHRISTIAN HOLMES TO MAKE SURE THAT YOU GET THE INFORMATION TO

01:52PM 17 RESPOND TO THE INFORMATION?

01:52PM 18 A. YES.

01:52PM 19 Q. OKAY.

01:52PM 20 YOUR HONOR, WE OFFER 12846.

01:53PM 21 MR. BOSTIC: NO OBJECTION.

01:53PM 22 THE COURT: IT'S ADMITTED. IT MAY BE PUBLISHED.

01:53PM 23 (DEFENDANT'S EXHIBIT 12846 WAS RECEIVED IN EVIDENCE.)

01:53PM 24 BY MR. COOPERSMITH:

01:53PM 25 Q. AND IF YOU GO TO THE EARLIEST EMAIL IN TIME, THAT'S AN

01:53PM 1 EMAIL FROM ANAM, ANAM KHAN.

01:53PM 2 DO YOU SEE THAT? AND THAT'S THE INQUIRY THAT I MENTIONED

01:53PM 3 FROM DR. KRAL?

01:53PM 4 MR. BOSTIC: YOUR HONOR, I BELIEVE THERE'S SOME

01:53PM 5 PATIENT INFORMATION ON THE SCREEN.

01:53PM 6 MR. COOPERSMITH: OH, YES. LET'S TAKE THAT DOWN.

01:53PM 7 THE COURT: LET'S TAKE THAT DOWN.

01:53PM 8 MR. COOPERSMITH: AND ARE YOU ABLE TO REDACT THAT,

01:53PM 9 MR. ALLEN?

01:53PM 10 BY MR. COOPERSMITH:

01:53PM 11 Q. THANK YOU.

01:53PM 12 DR. ROSENDORFF, WE HAVE THE EMAIL UP, BUT WITHOUT THE

01:53PM 13 PATIENT INFORMATION.

01:53PM 14 THAT'S THE EMAIL THAT I WAS REFERRING TO ABOUT DR. KRAL;

01:54PM 15 RIGHT?

01:54PM 16 A. YES.

01:54PM 17 Q. AND YOU -- IF YOU GO TO THE SECOND PAGE OF THE EXHIBIT.

01:54PM 18 YOU'RE EVENTUALLY GOING TO CALL THE PHYSICIAN; RIGHT?

01:54PM 19 A. YES.

01:54PM 20 Q. AND SO YOU ASKED FOR THE PHONE NUMBER?

01:54PM 21 A. YES.

01:54PM 22 Q. AND THEN ON THE EMAIL ON THE FIRST PAGE, THE SECOND EMAIL,

01:54PM 23 THEN YOU WROTE BACK TO ANAM KHAN, "REPORTING ON YOUR CALL WITH

01:54PM 24 DR. KRAL."

01:54PM 25 RIGHT?

01:54PM 1 A. YES.

01:54PM 2 Q. AND IT SAYS, "ANAM,

01:54PM 3 "THANKS -- I JUST GOT OFF THE PHONE WITH DR. KRAL. SHE IS

01:54PM 4 PUZZLED WITH LOW FT4 RESULTS," AND SHE HAS MORE INFORMATION.

01:54PM 5 AND THEN SHE SAYS, "AT STANFORD, ON BOTH RESULTS CAME BACK

01:54PM 6 AS NORMAL."

01:54PM 7 DO YOU SEE THAT?

01:54PM 8 A. YES.

01:54PM 9 Q. AND THEN IT'S REPORTING ON YOUR CALL WITH DR. KRAL; RIGHT?

01:55PM 10 A. YES.

01:55PM 11 Q. AND THEN IT SAYS, "THE M.D. IS EXTREMELY POSITIVE AND

01:55PM 12 EXCITED BY THERANOS AND WANTS US TO CRUSH QUEST DIAGNOSTICS."

01:55PM 13 RIGHT?

01:55PM 14 A. YES.

01:55PM 15 Q. AND WHAT IS QUEST DIAGNOSTICS?

01:55PM 16 A. IT'S AN INTERNATIONAL DIAGNOSTICS COMPANY.

01:55PM 17 Q. ANOTHER TESTING LAB?

01:55PM 18 A. YES.

01:55PM 19 Q. MUCH LARGER THAN THERANOS?

01:55PM 20 A. YES.

01:55PM 21 Q. OKAY. AND THEN AFTER THAT THERE'S A NOTE IN YOUR EMAIL.

01:55PM 22 DO YOU SEE THAT?

01:55PM 23 A. YES.

01:55PM 24 Q. AND YOU WROTE, "AAP PERFORMED ON 4/18/2014 INDICATES THAT

01:55PM 25 THE THERANOS METHOD IS, ON AVERAGE, 10 PERCENT LOWER THAN THE

01:55PM 1 PREDICATE (IMMULITE) METHOD," AND THEN YOU HAVE SOME DATA, AND

01:55PM 2 THEN YOU SAY, "WHICH IS ACCEPTABLE."

01:55PM 3 DO YOU SEE THAT?

01:55PM 4 A. YES.

01:55PM 5 Q. AND THAT'S WHAT YOU REFERRING TO, TO ANSWER THE DOCTOR'S

01:55PM 6 INQUIRY?

01:55PM 7 A. YES.

01:55PM 8 Q. OKAY. OKAY. LET'S GO TO A DIFFERENT TOPIC.

01:56PM 9 AND I THINK WE MENTIONED THIS BEFORE, BUT ONE OF THE

01:56PM 10 ASSAYS THAT WE'VE DISCUSSED DURING THE COURSE OF YOUR

01:56PM 11 TESTIMONY, AND ALSO WAS AN ISSUE AT THE TIME, IS THE ASSAY

01:56PM 12 POTASSIUM; RIGHT?

01:56PM 13 A. YES.

01:56PM 14 Q. OKAY. SO LET'S LOOK AT THE POTASSIUM ISSUE.

01:56PM 15 SO STARTING WITH EXHIBIT 9313. LOOKING AT THAT DOCUMENT,

01:56PM 16 AND WE CAN MAYBE GO TO OTHER PAGES IF NECESSARY, BUT THIS IS

01:57PM 17 THE POTASSIUM ASSAY DEVELOPMENT REPORT FOR POTASSIUM; IS THAT

01:57PM 18 RIGHT?

01:57PM 19 A. YES.

01:57PM 20 Q. AND THAT'S, AS WE DISCUSSED BEFORE, SOMETHING THAT IS IN

01:57PM 21 THE RESEARCH AND DEVELOPMENT LAB?

01:57PM 22 A. YES.

01:57PM 23 Q. AND THAT'S ALL THE PRELUDE TO EVENTUALLY PUTTING AN ASSAY

01:57PM 24 INTO THE CLIA LAB; RIGHT?

01:57PM 25 A. YES.

01:57PM 1 Q. AND YOU RECOGNIZE THIS AS THE POTASSIUM DEVELOPMENT REPORT  
01:57PM 2 FROM RESEARCH AND DEVELOPMENT AT THERANOS?

01:57PM 3 A. I'M JUST READING THE TITLE OF IT.

01:57PM 4 Q. OKAY. YOU DON'T HAVE ANY SEPARATE RECOLLECTION OF THE  
01:57PM 5 DOCUMENT?

01:57PM 6 A. NO.

01:57PM 7 Q. BUT YOU KNOW THAT THERE WERE A LOT OF ASSAY DEVELOPMENT  
01:57PM 8 REPORTS DONE FOR VARIOUS ASSAYS; RIGHT?

01:57PM 9 A. YES.

01:57PM 10 Q. AND IT DOESN'T SURPRISE YOU THAT THIS ONE IS FOR  
01:57PM 11 POTASSIUM?

01:57PM 12 A. NO.

01:57PM 13 Q. OKAY. LET'S LOOK AT EXHIBIT 20302.

01:58PM 14 AND EXHIBIT 20302 IS THE STANDARD OPERATING PROCEDURE FOR  
01:58PM 15 PROVIDING POTASSIUM ON A MODIFIED SIEMENS ASSAY?

01:58PM 16 A. YES.

01:58PM 17 Q. OKAY. AND THIS WAS A DOCUMENT THAT YOU SIGNED ON  
01:58PM 18 NOVEMBER 19TH, 2013?

01:58PM 19 A. 20TH, YEAH.

01:58PM 20 Q. OKAY. ON NOVEMBER 20TH?

01:58PM 21 A. YES, SIR.

01:58PM 22 Q. OF 2013?

01:58PM 23 A. YES.

01:58PM 24 MR. COOPERSMITH: OKAY. YOUR HONOR, WE OFFER 20302.

01:58PM 25 MR. BOSTIC: NO OBJECTION.

01:58PM 1 THE COURT: IT'S ADMITTED. IT MAY BE PUBLISHED.

01:58PM 2 (DEFENDANT'S EXHIBIT 20302 WAS RECEIVED IN EVIDENCE.)

01:58PM 3 BY MR. COOPERSMITH:

01:58PM 4 Q. SO THIS IS NOT A VALIDATION REPORT, THIS IS ACTUALLY THE  
01:58PM 5 ACTUAL PROCEDURE FOR RUNNING POTASSIUM; RIGHT?

01:58PM 6 A. YES.

01:58PM 7 Q. AND SO IN ADDITION TO THE VALIDATION REPORTS, THERE ALSO  
01:58PM 8 HAS TO BE A PROCEDURE FOR HOW THE LAB PERSONNEL HAVE TO  
01:58PM 9 ACTUALLY GO ABOUT RUNNING THE TESTS; RIGHT?

01:59PM 10 A. CORRECT.

01:59PM 11 Q. AND THEY'RE SUPPOSED TO FOLLOW THAT OPERATING PROCEDURE;  
01:59PM 12 RIGHT?

01:59PM 13 A. CORRECT.

01:59PM 14 Q. AND THAT'S SO THEY DON'T MAKE MISTAKES; RIGHT?

01:59PM 15 A. CORRECT.

01:59PM 16 Q. BUT SOMETIMES THEY DO?

01:59PM 17 A. YES.

01:59PM 18 Q. AND THERE ARE A VARIETY OF MISTAKES THAT COULD BE MADE;  
01:59PM 19 RIGHT?

01:59PM 20 A. SURE.

01:59PM 21 Q. AND SO WITH REGARD TO POTASSIUM, THERE IS WHAT IS CALLED  
01:59PM 22 PREANALYTIC MISTAKES, OR ERRORS; RIGHT?

01:59PM 23 A. YES.

01:59PM 24 Q. AND THE PREANALYTIC ERRORS ARE BEFORE THE SAMPLE EVEN GETS  
01:59PM 25 TO THE LAB TO TEST; RIGHT?



01:59PM 1 A. SO THIS SOP WOULD NOT COVER THE PREANALYTIC PROCEDURES  
01:59PM 2 SUCH AS THE BLOOD COLLECTION ITSELF.

01:59PM 3 Q. RIGHT. BUT -- THANK YOU.

01:59PM 4 BUT APART FROM THE PROCEDURE THEN, THERE IS SOMETHING  
01:59PM 5 KNOWN AS PREANALYTIC ERROR?

01:59PM 6 A. YES.

01:59PM 7 Q. AND THAT COULD INVOLVE SOMETHING LIKE THE METHOD OF BLOOD  
01:59PM 8 COLLECTION; RIGHT?

01:59PM 9 A. CORRECT.

01:59PM 10 Q. SO WHEN BLOOD IS COLLECTED, THERE COULD BE A PROBLEM WITH  
01:59PM 11 THE WAY THAT THE SAMPLE IS COLLECTED; RIGHT?

01:59PM 12 A. CORRECT.

01:59PM 13 Q. AND THAT WOULDN'T NECESSARILY BE A PROBLEM WITH THE  
02:00PM 14 TECHNOLOGY, IT MIGHT BE A PROBLEM WITH THE WAY THAT THE PERSON  
02:00PM 15 WHO COLLECTED THE SAMPLE WENT ABOUT DOING THAT; RIGHT?

02:00PM 16 A. YES. IT COULD ALSO BE THE FUNCTIONING OF THE CTN.

02:00PM 17 Q. A VARIETY OF THINGS?

02:00PM 18 A. A VARIETY OF THINGS, YEAH.

02:00PM 19 Q. AND ONE THING THAT COULD HAPPEN WITH REGARD TO POTASSIUM  
02:00PM 20 IN PARTICULAR IS SOMETHING CALLED HEMOLYSIS?

02:00PM 21 A. CORRECT.

02:00PM 22 Q. AND THAT WOULD BE WHERE THE ACTUAL PROCESS OF COLLECTING  
02:00PM 23 THE SAMPLE RESULTS IN RED BLOOD CELLS BASICALLY BURSTING?

02:00PM 24 A. CORRECT.

02:00PM 25 Q. AND THAT CREATES KIND OF ARTIFACTS THAT DON'T MAKE THE

02:00PM 1 TEST WORK AS DESIGNED; CORRECT?

02:00PM 2 A. CORRECT.

02:00PM 3 Q. AND THAT'S SOMETHING THAT HAPPENED AT THERANOS FROM TIME

02:00PM 4 TO TIME; RIGHT?

02:00PM 5 A. FREQUENTLY.

02:00PM 6 Q. AND THAT HAPPENS IN OTHER LABS, TOO?

02:00PM 7 A. YES.

02:00PM 8 Q. AND, IN FACT, ALL LABS MAKE ERRORS; RIGHT?

02:00PM 9 A. YES.

02:00PM 10 Q. AND IN YOUR EXPERIENCE WORKING AS OTHER LABS, INCLUDING

02:00PM 11 THE UNIVERSITY OF PITTSBURGH, WHICH I KNOW YOU DISCUSSED ON

02:00PM 12 DIRECT, THERE WERE ERRORS THAT WERE OCCASIONALLY MADE; RIGHT?

02:01PM 13 A. YES.

02:01PM 14 Q. AND YOU DID YOUR BEST TO CORRECT THEM?

02:01PM 15 A. YES.

02:01PM 16 Q. OKAY. LET'S GO TO THE NEXT EXHIBIT, WHICH IS 9315.

02:01PM 17 AND 9315 I THINK SHOULD ALREADY BE IN EVIDENCE UNDER THE

02:01PM 18 STIPULATION.

02:01PM 19 DO YOU SEE THAT IN FRONT OF YOU, DR. ROSENDORFF?

02:01PM 20 A. YES.

02:01PM 21 Q. AND THIS IS THE VALIDATION OF MODIFIED SIEMENS POTASSIUM

02:01PM 22 ASSAY; RIGHT?

02:01PM 23 A. YES.

02:01PM 24 Q. AND SO THIS WAS POTASSIUM RUNNING ON ONE OF THOSE MODIFIED

02:01PM 25 PREDICATE DEVICES; RIGHT?

02:01PM 1 A. YES.

02:01PM 2 Q. AND YOU SIGNED THE DOCUMENT ON MARCH 24TH OF 2014?

02:01PM 3 A. YES.

02:01PM 4 Q. AND THIS IS ACTUALLY THE VALIDATION REPORT; RIGHT?

02:02PM 5 A. YES.

02:02PM 6 Q. OKAY. AND YOU SIGNED THAT BECAUSE AT THE TIME YOU WERE

02:02PM 7 SATISFIED THAT THE ASSAY WAS APPROPRIATE FOR CLINICAL USE?

02:02PM 8 A. YES.

02:02PM 9 Q. LET'S GO TO EXHIBIT 4037.

02:02PM 10 EXHIBIT 4037, DO YOU SEE IT'S AN EMAIL STRING INCLUDING

02:02PM 11 YOURSELF AND A VARIETY OF OTHER PEOPLE AT THERANOS; IS THAT

02:03PM 12 RIGHT?

02:03PM 13 A. YES.

02:03PM 14 Q. AND IT'S FROM MID-NOVEMBER, '13?

02:03PM 15 A. YES.

02:03PM 16 Q. AND IT'S ABOUT, IT'S ABOUT SOME DEMOS; IS THAT RIGHT?

02:03PM 17 A. IT'S FROM DAN EDLIN, YES, IT'S ABOUT DEMOS.

02:03PM 18 Q. OKAY. AND THIS IS.

02:03PM 19 YOUR HONOR, WE MOVE 4037 INTO EVIDENCE.

02:03PM 20 THE COURT: 4037.

02:03PM 21 MR. COOPERSMITH: 4037.

02:03PM 22 MR. BOSTIC: NO OBJECTION.

02:03PM 23 THE COURT: IT'S ADMITTED. IT MAY BE PUBLISHED.

02:03PM 24 (GOVERNMENT'S EXHIBIT 4037 WAS RECEIVED IN EVIDENCE.)

02:03PM 25 BY MR. COOPERSMITH:

02:03PM 1 Q. IF YOU GO TO THE EMAIL THAT IS EARLIEST IN TIME, THAT'S  
02:03PM 2 NOVEMBER 15TH, FROM MR. EDLIN?

02:03PM 3 A. YES.

02:03PM 4 Q. AND HE SAYS, "HI ALL,

02:03PM 5 "THIS AFTERNOON AT 3:30 P.M. WE WILL HAVE TWO PATIENTS AT  
02:03PM 6 WAG FOR A FINGERSTICK. THESE ARE DEMO PATIENTS, BUT THE  
02:04PM 7 COLLECTION WILL TAKE PLACE AT WAG."

02:04PM 8 RIGHT?

02:04PM 9 A. YES.

02:04PM 10 Q. AND SO EVEN THOUGH THIS WAS A DEMONSTRATION, THE  
02:04PM 11 COLLECTION IN THIS CASE WOULD TAKE PLACE AT A WALGREENS STORE?

02:04PM 12 A. YES.

02:04PM 13 Q. THAT'S WHAT WAG IS?

02:04PM 14 A. YES.

02:04PM 15 Q. WHEN YOU TALK ABOUT ISE ASSAYS, WHAT ARE THE ISE ASSAYS?

02:04PM 16 A. SODIUM, POTASSIUM, AND CHLORIDE.

02:04PM 17 Q. SO POTASSIUM IS ONE OF THE ISE ASSAYS?

02:04PM 18 A. YES.

02:04PM 19 Q. OKAY. AND IF YOU GO TO SORT OF THE MIDDLE EMAIL ON PAGE 2  
02:04PM 20 OF THE EXHIBIT, THAT SAYS, "DANIEL, THE RESULTS FOR THE WAG  
02:04PM 21 DEMO ARE ATTACHED. THE ISE ASSAYS WERE RUN WITH A 1:1  
02:04PM 22 DILUTION, AND THE DILUTION FACTOR WAS ENTERED IN THE ADVIA, SO  
02:04PM 23 IT CORRECTED FOR THE DILUTION."

02:04PM 24 DO YOU SEE THAT?

02:04PM 25 A. YES.

02:04PM 1 Q. AND SO WE'RE TALKING ABOUT, IN THIS EMAIL, ISE ASSAYS THAT  
02:05PM 2 WERE RUN AS A DEMO; RIGHT?

02:05PM 3 A. YES.

02:05PM 4 Q. AND THEN IF YOU GO TO THE NEXT PAGE, THERE'S AN EMAIL ON  
02:05PM 5 THE FIRST PAGE ON THE VERY BOTTOM FROM SOMEONE NAMED LINDA LY.  
02:05PM 6 DO YOU SEE THAT?

02:05PM 7 A. YES.

02:05PM 8 Q. AND MS. LY WRITES TO A GROUP OF PEOPLE "UNLESS EREZ NEEDS  
02:05PM 9 TO CORRECT USING THE MQ'S WHICH WERE RUN WITH THE SAMPLE AND  
02:05PM 10 ALSO DILUTED 1:1 (SHOULD BE INCLUDED IN THE ASSAY RESULT DATA  
02:05PM 11 FILE FOR THE ISE'S). IS THERE NO CORRECTION FOR THAT?  
02:05PM 12 DO YOU SEE THAT?

02:05PM 13 A. YES.

02:05PM 14 Q. AND THEN ANOTHER THERANOS PERSON NAMED SARAH CABAYAN.  
02:05PM 15 DO YOU SEE THAT?

02:05PM 16 A. YES.

02:05PM 17 Q. SHE SAYS, "I DON'T KNOW IF ANYBODY HAS EXPLAINED WHERE  
02:05PM 18 THIS CORRECTION COMES FROM, I DON'T THINK THE RESULTS SHOULD BE  
02:05PM 19 ADJUSTED."  
02:05PM 20 RIGHT?

02:05PM 21 A. YES, I SEE THAT.

02:05PM 22 Q. AND THAT WAS MS. CABAYAN'S OPINION; RIGHT?

02:06PM 23 A. YES.

02:06PM 24 Q. AND SHE WAS A LAB ASSOCIATE?

02:06PM 25 A. SHE WAS A CLS.

02:06PM 1 Q. ONE OF THE CLS'S?

02:06PM 2 A. YEAH.

02:06PM 3 Q. AND THAT WAS THE VIEW THAT SHE EXPRESSED; RIGHT?

02:06PM 4 A. YES.

02:06PM 5 Q. AND IN THE NEXT EMAIL, JUST ABOUT FOUR MINUTES LATER, FROM  
02:06PM 6 DANIEL YOUNG SAYS, "OK TO RELEASE FROM MY POINT OF VIEW."

02:06PM 7 A. YES.

02:06PM 8 Q. AND THEN A MINUTE LATER YOU WROTE, "APPROVED"; RIGHT?

02:06PM 9 A. YES.

02:06PM 10 Q. SO YOU DISAGREED WITH MS. CABAYAN?

02:06PM 11 A. I THINK WHAT I WAS APPROVING WERE THE RESULTS. I DON'T  
02:06PM 12 KNOW IF I WAS EXPRESSLY TALKING ABOUT BIAS -- WHAT WAS IT  
02:06PM 13 CALLED? THE CORRECTION?

02:06PM 14 Q. IT DOESN'T EXPLAIN IT. IT JUST SAYS CORRECTION,  
02:06PM 15 DR. ROSENDORFF.

02:06PM 16 SO APPARENTLY MS. CABAYAN HAD A VIEW THAT SHE DIDN'T THINK  
02:06PM 17 THE RESULTS SHOULD BE ADJUSTED.

02:06PM 18 DO YOU SEE THAT?

02:06PM 19 A. YES.

02:06PM 20 Q. AND DANIEL YOUNG, NOTWITHSTANDING THAT, HE SAYS FOUR  
02:07PM 21 MINUTES LATER, "OK TO RELEASE FROM MY POINT OF VIEW."

02:07PM 22 RIGHT?

02:07PM 23 A. I DON'T KNOW IF THE RESULTS WERE CORRECTED OR NOT --

02:07PM 24 Q. DR. ROSENDORFF, IN ANY EVENT, WITHIN A SPAN OF ABOUT FIVE  
02:07PM 25 MINUTES, MS. CABAYAN EXPRESSED HER VIEW?

02:07PM 1 A. YES.

02:07PM 2 Q. AND DANIEL YOUNG SAID, "OK TO RELEASE"; RIGHT?

02:07PM 3 A. YES.

02:07PM 4 Q. AND THEN YOU SAID "APPROVED"?

02:07PM 5 A. YES.

02:07PM 6 Q. OKAY. AND MR. EDLIN AT THE VERY TOP, JUST TO CLOSE THE

02:07PM 7 LOOP, SAYS, "GREAT, THANKS"; RIGHT?

02:07PM 8 A. YES.

02:07PM 9 Q. ALL RIGHT.

02:08PM 10 LET'S TAKE A LOOK AT 20317.

02:08PM 11 OKAY. THIS IS AN EMAIL STRING FROM APRIL OF 2014?

02:08PM 12 A. YES.

02:08PM 13 Q. DO YOU SEE THAT?

02:08PM 14 AND IT'S RELATING TO A CERTAIN CTN THAT WAS COLLECTED?

02:08PM 15 A. YES.

02:08PM 16 Q. AND AT THE TOP OF THE EMAIL IT'S FROM HODA ALAMDAR TO

02:08PM 17 YOURSELF AND OTHERS?

02:08PM 18 A. YES.

02:08PM 19 Q. OKAY.

02:08PM 20 YOUR HONOR, WE OFFER 20317.

02:08PM 21 MR. BOSTIC: NO OBJECTION.

02:08PM 22 THE COURT: IT'S ADMITTED. IT MAY BE PUBLISHED.

02:08PM 23 (DEFENDANT'S EXHIBIT 20317 WAS RECEIVED IN EVIDENCE.)

02:08PM 24 BY MR. COOPERSMITH:

02:08PM 25 Q. OKAY. JUST TO ORIENT OURSELVES, GOING TO THE EARLIEST

02:08PM 1 EMAIL IN TIME, THERE'S AN EMAIL FROM TINA LIN ON PAGE 5 AND SHE  
02:09PM 2 WRITES TO MS. ALAMDAR AND OTHERS, "NO, LET ME GO ADD A NOTE ON  
02:09PM 3 ALL OF THE ISE'S TONIGHT. THEY ARE NOT YET READY FOR CLIA  
02:09PM 4 REVIEW."

02:09PM 5 DO YOU SEE THAT?

02:09PM 6 A. YES.

02:09PM 7 Q. OKAY. AND THEN IF YOU GO TO PAGE 2 OF THE DOCUMENT,  
02:09PM 8 THERE'S AN EMAIL FROM TINA LIN TO A GROUP OF PEOPLE, INCLUDING  
02:09PM 9 YOURSELF.

02:09PM 10 DO YOU SEE THAT?

02:09PM 11 A. YES.

02:09PM 12 Q. AND IT SAYS "HI HODA,

02:09PM 13 "THE RERUN RESULTS WERE NOT GOOD. WE WILL HAVE TO GO WITH  
02:09PM 14 THE RESULTS FROM LAST NIGHT. NOTE THAT THERE WAS NOT ENOUGH  
02:09PM 15 SAMPLE TO RERUN 19016."

02:09PM 16 DO YOU SEE THAT?

02:09PM 17 A. YES.

02:09PM 18 Q. AND THE NEXT EMAIL WAS FROM MS. ALAMDAR AGAIN.

02:09PM 19 SHE WRITES, "HI ADAM,

02:09PM 20 "JUST TO CONFIRM, WE CAN RELEASE ALL ISE'S INCLUDING THE  
02:09PM 21 CRITICAL RESULTS FOR 52136, FOR K," THAT'S POTASSIUM?

02:09PM 22 A. YES.

02:09PM 23 Q. "SEE BELOW EMAIL FROM TINA"; RIGHT?

02:10PM 24 A. YES.

02:10PM 25 Q. SO THAT WAS AN EMAIL DIRECTLY TO YOU; RIGHT?



02:10PM 1 A. YES.

02:10PM 2 Q. AND THEN YOU RESPONDED ON APRIL 23RD AT 4:57 P.M.?

02:10PM 3 A. YES.

02:10PM 4 Q. "HODA, PLEASE MEASURE THE LDH ON CTN WITH THE K OF 7.4"?

02:10PM 5 A. YES.

02:10PM 6 Q. AND YOU'RE GIVING HER SPECIFIC INSTRUCTIONS?

02:10PM 7 A. YES.

02:10PM 8 Q. AND BY THE WAY, MR. BALWANI IS NOT ON THE EMAIL; RIGHT?

02:10PM 9 A. YES.

02:10PM 10 Q. AND THEN YOU RESPOND AGAIN AT 5:21 P.M., "HODA, I'M

02:10PM 11 ASSUMING YOU HAVE CONFIRMED WITH TINA LIN AND DANIEL YOUNG THAT

02:10PM 12 THE CTN WAS NOT COMPROMISED IN ANY WAY. IF THIS IS THE CASE,

02:10PM 13 THEN PLEASE CALL IT CRITICAL FOR THIS PATIENT."

02:10PM 14 RIGHT?

02:10PM 15 A. YES.

02:10PM 16 Q. AND COMPROMISED MEANS IT COULD BE THAT HEMOLYSIS ISSUE

02:10PM 17 THAT WE TALKED ABOUT BEFORE; RIGHT?

02:10PM 18 A. YEAH, AND IF THE HDL IS VERY HIGH, IT WOULD INDICATE

02:10PM 19 HEMOLYSIS AS WELL.

02:10PM 20 Q. RIGHT. SO YOU WERE ASKING HER TO CHECK FOR THAT?

02:10PM 21 A. YES.

02:10PM 22 Q. AND SHE REPORTED, "HI ADAM,

02:10PM 23 "I LOOKED AT THE CTN IMAGE FOR 19016. THE CTN IS NOT

02:11PM 24 HEMOLYZED. WE ARE GOING TO RELEASE ALL OF THE ISE'S INCLUDING

02:11PM 25 THE CRITICAL K"; RIGHT?

02:11PM 1 A. YES.

02:11PM 2 Q. AND THIS WAS AN INSTANCE WHERE YOU AGREED TO RELEASE A

02:11PM 3 CRITICAL POTASSIUM AFTER YOU WERE SATISFIED THAT IT WASN'T

02:11PM 4 HEMOLYZED AND EVERYTHING ELSE CHECKED OUT?

02:11PM 5 A. HEMOLYZED, YES.

02:11PM 6 Q. HEMOLYZED. THANK YOU.

02:12PM 7 LET'S GO TO 20316.

02:12PM 8 20316, DR. ROSENDORFF, IS AN EMAIL STRING AMONG YOURSELF

02:12PM 9 AND OTHER LAB PERSONNEL AT THERANOS?

02:12PM 10 A. YES.

02:12PM 11 Q. AND IT RELATES TO GENERAL CHEMISTRY RESULTS?

02:12PM 12 A. YES.

02:12PM 13 Q. AND IT'S APRIL 2014; IS THAT RIGHT?

02:12PM 14 A. YES.

02:12PM 15 Q. AND, YOUR HONOR, WE OFFER 20316.

02:12PM 16 MR. BOSTIC: NO OBJECTION.

02:12PM 17 THE COURT: IT'S ADMITTED. IT MAY BE PUBLISHED.

02:12PM 18 (DEFENDANT'S EXHIBIT 20316 WAS RECEIVED IN EVIDENCE.)

02:12PM 19 BY MR. COOPERSMITH:

02:12PM 20 Q. LET'S GO TO THE EARLIEST EMAIL IN TIME, AND THIS IS FROM

02:12PM 21 ELLEN SANG.

02:12PM 22 DO YOU SEE THAT?

02:12PM 23 A. YES.

02:12PM 24 Q. AND IT SAYS "HI GUYS,

02:12PM 25 "MORE GC RESULTS HAS BEEN UPLOADED TO LIS."

02:12PM 1 DO YOU SEE THAT?

02:12PM 2 A. YES.

02:12PM 3 Q. AND IT SAYS, "PLEASE NOTE THAT CTN 7720 IS SHORT VOLUME  
02:12PM 4 AND WE HAD TO HAND DILUTE ISE AND RAN MULTIQUALS ON EVOWARE."

02:12PM 5 DO YOU SEE THAT?

02:12PM 6 A. YES.

02:12PM 7 Q. AND SO THAT'S AN INITIAL TOPIC.

02:13PM 8 BUT THEN IF YOU GO TO THE EMAIL ON PAGE 1 FROM  
02:13PM 9 STELLA HOWARD, THAT'S TO YOU WITH A COPY TO MS. ALAMDAR.

02:13PM 10 DO YOU SEE THAT?

02:13PM 11 A. YES.

02:13PM 12 Q. SHE SAYS, "ADAM,

02:13PM 13 "SHOULD I RELEASE THE 5.8 POTASSIUM RESULT WITH A NOTE  
02:13PM 14 SAYING STATING THAT IT'S HEMOLYZED THEN...? I'M SORRY, I GUESS  
02:13PM 15 I AM NOT UNDERSTANDING THE ACCEPTABLE WORKFLOW FROM ISE'S THAT  
02:13PM 16 ARE COMING OUT LOW/HIGH."

02:13PM 17 A. YES.

02:13PM 18 Q. AND THEN SHE GOES ON, "SO IN THE FUTURE WE WILL RELEASE  
02:13PM 19 RESULTS IF THEY ARE READY FOR CLIA REVIEW, WITHOUT CHECKING  
02:13PM 20 WITH YOU ADAM, REGARDLESS IF THEY ARE LOW/HIGH. WE SHOULD ONLY  
02:13PM 21 CHECK WITH YOU IF THEY ARE CRITICAL."

02:13PM 22 THAT'S WHAT SHE IS STATING AND ASKING YOU TO GIVE HER SOME  
02:13PM 23 GUIDANCE; RIGHT?

02:13PM 24 A. YES.

02:13PM 25 Q. AND THEN YOU DID ON THE EMAIL AT THE TOP. YOU RESPONDED

02:13PM 1 AND YOU WROTE, "HI STELLA,

02:13PM 2 "IF THE SAMPLE APPEARS HEMOLYZED TO THE CLS, THEN IT IS

02:14PM 3 THE CLS DISCRETION TO ACCEPT THE RESULTS, USING THE HEMOLYSIS

02:14PM 4 VISUAL CHART IN NORMANDY, SINCE WE DON'T HAVE AN AUTOMATED

02:14PM 5 HEMOLYSIS METHOD YET."

02:14PM 6 DO YOU SEE THAT?

02:14PM 7 A. YES.

02:14PM 8 Q. AND THEN YOU SAY, "IN SUMMARY, THE RESULTS CAN BE RELEASED

02:14PM 9 WHEN R&D SIGNS OFF ON THE CTN."

02:14PM 10 THAT'S ONE WAY RESULTS CAN BE RELEASED; RIGHT?

02:14PM 11 A. YES.

02:14PM 12 Q. OR TWO, "CLS SIGNS OFF THAT THE CTN WAS NOT HEMOLYZED."

02:14PM 13 A. YES.

02:14PM 14 Q. OR THREE, "ISE'S ARE NOT CRITICAL."

02:14PM 15 RIGHT?

02:14PM 16 A. YES.

02:14PM 17 Q. SO THIS IS A POLICY YOU'RE PUTTING IN PLACE?

02:14PM 18 A. YES.

02:14PM 19 Q. AND YOU SAY, "RESULTS SHOULD COME TO ME," AS LAB DIRECTOR

02:14PM 20 I GUESS, "AND WHEN CRITICAL, OR SOME OTHER QUESTION THAT IS NOT

02:14PM 21 COVERED IN THESE POINTS."

02:14PM 22 SO YOU WANTED TO REVIEW THE CRITICAL RESULTS; RIGHT?

02:14PM 23 A. YES.

02:14PM 24 Q. BECAUSE THAT'S IMPORTANT; RIGHT? IF YOU'RE GOING TO REACH

02:14PM 25 A CRITICAL RESULT, BEFORE YOU TELL A PATIENT YOU HAVE CRITICAL

02:14PM 1 POTASSIUM OR ANYTHING, YOU WOULD WANT TO MAKE SURE AS BEST YOU  
02:15PM 2 COULD THAT THAT WAS CORRECT; RIGHT?

02:15PM 3 A. YES.

02:15PM 4 Q. NOW, YOU UNDERSTAND, AND I THINK YOU TESTIFIED, THAT THERE  
02:15PM 5 WERE ISSUES THAT WERE OF SOME CONCERN TO YOU ABOUT POTASSIUM;  
02:15PM 6 RIGHT?

02:15PM 7 A. YES.

02:15PM 8 Q. AND THAT -- BUT THE COMPANY DIDN'T JUST THROW UP ITS HANDS  
02:15PM 9 AND RELEASE THE RESULTS ANYWAY, THEY ACTUALLY TRIED TO WORK ON  
02:15PM 10 THE PROBLEM; RIGHT?

02:15PM 11 A. THEY DID.

02:15PM 12 Q. AND LET'S TAKE A LOOK AT 13893.  
02:15PM 13 13893 YOU SEE IS AN EMAIL STRING AMONG YOU, MR. BALWANI,  
02:16PM 14 AND OTHERS FROM MAY OF 2014?

02:16PM 15 A. YES.

02:16PM 16 MR. COOPERSMITH: YOUR HONOR, WE OFFER 13893.

02:16PM 17 MR. BOSTIC: NO OBJECTION.

02:16PM 18 THE COURT: IT'S ADMITTED. IT MAY BE PUBLISHED.  
02:16PM 19 (DEFENDANT'S EXHIBIT 13893 WAS RECEIVED IN EVIDENCE.)  
02:16PM 20 BY MR. COOPERSMITH:

02:16PM 21 Q. OKAY. LET'S LOOK AT THE EARLIEST EMAIL IN TIME, AND  
02:16PM 22 THAT'S AN EMAIL FROM DANIEL YOUNG; RIGHT?

02:16PM 23 A. YES.

02:16PM 24 Q. AND IT'S RELATING TO ISE STUDIES?

02:16PM 25 A. YES.

02:16PM 1 Q. WHICH, AS WE DISCUSSED, INCLUDES POTASSIUM?

02:16PM 2 A. YES.

02:16PM 3 Q. AND IT SAYS, "I WANTED TO UPDATE YOU ON THE ISE STUDIES IN  
02:16PM 4 PREPARATION FOR SWITCHING BACK TO THE DILUTED ISE PROTOCOLS ON  
02:16PM 5 TUESDAY."

02:16PM 6 DO YOU SEE THAT?

02:16PM 7 A. YES.

02:16PM 8 Q. AND DR. YOUNG WRITES, "WITH OUR NEW APPROACH, WE HAVE NOW  
02:16PM 9 SHOWN THAT WE CAN PROCESS AND RUN ISE'S WITH DILUTED VENOUS  
02:16PM 10 SAMPLES WITH GREAT ACCURACY AND PRECISION (SHOWN NOW OVER  
02:16PM 11 10 DAYS AND 48 SUBJECTS) ."

02:17PM 12 DO YOU SEE THAT?

02:17PM 13 A. YES.

02:17PM 14 Q. AND THAT WAS WHAT DR. YOUNG WAS WRITING?

02:17PM 15 A. YES.

02:17PM 16 Q. AND MR. BALWANI WROTE BACK ON MAY 24TH, 12:03 P.M. HE  
02:17PM 17 WRITES, "DANIEL,

02:17PM 18 "THIS IS TRULY GREAT PROGRESS AND A BIG COMPETITIVE  
02:17PM 19 ADVANTAGE FOR US.

02:17PM 20 "WE NEED TO KEEP THIS PROJECT, THE CODE, CALIBRATION, AND  
02:17PM 21 EVERYTHING WE LEARNED HERE AS THERANOS TRADE SECRET. EVERYONE  
02:17PM 22 WHO WAS WORKING ON THIS NEEDS TO UNDERSTAND THIS. THIS ALSO  
02:17PM 23 SHOULD NOT BE COMMUNICATED TO ANYONE IN CLIA WHO DOESN'T NEED  
02:17PM 24 TO KNOW HOW WE DO THIS CALIBRATION AND HOW WE GOT WHERE WE ARE  
02:17PM 25 ON THIS PROJECT. BESIDES ADAM, NO ONE IN CLIA NEEDS TO KNOW

02:17PM 1 ABOUT OUR SECRET SAUCE AND IF ADAM THINKS ANYONE ELSE NEEDS TO  
02:17PM 2 KNOW THIS THEN WE NEED TO GET THEM UNDER SAME AGREEMENT AROUND  
02:17PM 3 OUR TRADE SECRET. THERE IS NO ONE ON THE INDUSTRY CAPABLE OF  
02:17PM 4 DOING WHAT WE HAVE ACCOMPLISHED HERE BECAUSE OF THE MASSIVE  
02:17PM 5 LEARNINGS AND TRIAL AND ERRORS. WE NEED TO PROTECT THIS."

02:17PM 6 DO YOU SEE THAT?

02:17PM 7 A. YES.

02:17PM 8 Q. OKAY. AND IN RESPONSE TO MR. BALWANI, DANIEL YOUNG WROTE,  
02:17PM 9 "SOUNDS GOOD. I WILL GET TOGETHER WITH MONA AND DRAFT THE  
02:18PM 10 STRATEGY."

02:18PM 11 RIGHT?

02:18PM 12 A. YES.

02:18PM 13 Q. AND MONA WAS A HUMAN RESOURCES PERSON?

02:18PM 14 A. YEAH, SHE WAS A LAWYER, HR, HEAD OF HR THERE.

02:18PM 15 Q. AND SHE WAS A LAWYER AND ALSO THE HEAD OF HR?

02:18PM 16 A. CORRECT.

02:18PM 17 Q. AND THEN ABOVE THAT IS AN EMAIL FROM YOU TO DR. YOUNG  
02:18PM 18 COPYING MR. BALWANI, MS. HOLMES, AND MONA RAMAMURTHY.

02:18PM 19 AND YOU SAY "DANIEL,

02:18PM 20 "CONGRATULATIONS ON CRACKING THIS.

02:18PM 21 "REGARDS,

02:18PM 22 "ADAM."

02:18PM 23 RIGHT?

02:18PM 24 A. YES.

02:18PM 25 Q. AND THAT'S WITH RESPECT TO THE ISE'S?

02:18PM 1 A. YES.

02:18PM 2 Q. NOW, AFTER THAT, THOUGH, THERE WERE STILL SOME ISSUES THAT

02:18PM 3 SURFACED EVEN THOUGH AT THE TIME DR. YOUNG AND OTHERS HAD

02:18PM 4 THOUGHT THEY HAD SOLVED ALL OF THE PROBLEMS; RIGHT?

02:18PM 5 A. CORRECT.

02:18PM 6 Q. AND LET'S GO TO EXHIBIT 20342.

02:19PM 7 THIS IS AN EMAIL STRING FROM OCTOBER -- I'M SORRY.

02:19PM 8 PUTTING ASIDE THE TOP EMAIL, THERE'S AN EMAIL FROM JUNE OF

02:19PM 9 '14, AN EMAIL STRING; RIGHT?

02:19PM 10 A. YES.

02:19PM 11 Q. AND THIS RELATES TO PATIENT RESULTS SINCE MAY 24TH FOR

02:19PM 12 POTASSIUM?

02:19PM 13 A. YES.

02:19PM 14 Q. AND WHAT YOU AND OTHERS WERE SEEING WAS THAT SOME OF THE

02:19PM 15 POTASSIUMS WERE FLAGGING HIGH OR LOW; RIGHT?

02:20PM 16 LET ME WITHDRAW THAT AND ASK A BETTER QUESTION.

02:20PM 17 YOU WERE SEEING SOME RESULTS THAT YOU THOUGHT IT WAS

02:20PM 18 IMPORTANT TO RAISE BECAUSE YOU WERE STILL SEEING SOME ISSUES

02:20PM 19 EVEN AFTER THE EMAIL THAT WE PREVIOUSLY SAW; RIGHT?

02:20PM 20 A. YES.

02:20PM 21 Q. OKAY. AND ON -- IF YOU LOOK AT -- WELL, LET ME JUST SEE

02:20PM 22 IF I CAN DO THIS FIRST.

02:20PM 23 CAN WE, YOUR HONOR -- YOUR HONOR, WE OFFER 20342.

02:20PM 24 MR. BOSTIC: NO OBJECTION.

02:20PM 25 THE COURT: IT'S ADMITTED. IT MAY BE PUBLISHED.



02:20PM 1 (DEFENDANT'S EXHIBIT 20342 WAS RECEIVED IN EVIDENCE.)

02:20PM 2 BY MR. COOPERSMITH:

02:20PM 3 Q. OKAY. AND I WANTED TO SHOW YOU THE EMAIL THAT STARTS ON  
02:20PM 4 THE BOTTOM OF PAGE 1. THIS IS ON JUNE 28TH, 2014.

02:20PM 5 DO YOU SEE THAT?

02:20PM 6 A. YES.

02:20PM 7 Q. DR. YOUNG WRITES, "I WANTED TO PROVIDE A BRIEF UPDATE ON  
02:20PM 8 OUR REVIEW OF POTASSIUM DATA AND OUR REFINED FOCUS TO ADDRESS  
02:21PM 9 THAT."

02:21PM 10 DO YOU SEE THAT?

02:21PM 11 A. YES.

02:21PM 12 Q. AND HE SAYS, "FIRST, I WAS NOTICING THAT OUR POTASSIUM  
02:21PM 13 DATA FROM OUR IN-HOUSE SAMPLES HAS LESS ISSUES THAN OUR WAG  
02:21PM 14 POTASSIUM SAMPLES."

02:21PM 15 SO HE DID SOME ANALYSIS, AND HERE'S A SUMMARY; RIGHT?

02:21PM 16 A. YES.

02:21PM 17 Q. AND THEN THERE'S A SUMMARY CHART THAT INDICATES WHAT HE'S  
02:21PM 18 TALKING ABOUT; RIGHT?

02:21PM 19 A. YES.

02:21PM 20 Q. AND THEN HE SAYS, "AS THIS SHOWS, SAMPLES FROM PHOENIX ARE  
02:21PM 21 SHOWING HIGHER POTASSIUM RESULTS THAN WAG SAMPLES FROM  
02:21PM 22 PALO ALTO AND SAMPLES COLLECTED IN-HOUSE."

02:21PM 23 DO YOU SEE THAT?

02:21PM 24 A. YES.

02:21PM 25 Q. AND HE SAYS, "I BELIEVE THIS IS LIKELY DUE TO THREE

02:21PM 1 COMBINED EFFECTS."

02:21PM 2 AND THE FIRST IS "SAMPLE STORAGE TIME."

02:21PM 3 DO YOU SEE THAT?

02:21PM 4 A. YES.

02:21PM 5 Q. AND THE SECOND IS "IN FIELD AND NORMANDY SAMPLE PROCESSING

02:21PM 6 PROCEDURES (NAMELY, CENTRIFUGE PROCEDURES) ."

02:21PM 7 DO YOU SEE THAT?

02:21PM 8 A. YES.

02:21PM 9 Q. AND THEN THREE, "POSSIBLE SAMPLE COLLECTION TECHNIQUE

02:21PM 10 DIFFERENCES."

02:21PM 11 DO YOU SEE THAT?

02:21PM 12 A. YES.

02:21PM 13 Q. AND THEN HE SAYS, "WE HAVE PLANNED A STUDY TO UNDERSTAND

02:22PM 14 THESE FACTORS."

02:22PM 15 A. YES.

02:22PM 16 Q. AND THEN MR. BALWANI RESPONDS ON JUNE 28TH AND SAYS, "I

02:22PM 17 AGREE WITH THIS BUT WOULD LIKE TO MOVE RAPIDLY SO WE CAN HAVE

02:22PM 18 THE RIGHT PERFECT SOLUTION IN PLACE ASAP."

02:22PM 19 RIGHT?

02:22PM 20 A. YES.

02:22PM 21 Q. AND THEN DR. YOUNG REPORTS ON JUNE 28TH AT 3:46 P.M.

02:22PM 22 "INITIAL STUDY WAS RUN AND ANALYZED TODAY -- SHOWING

02:22PM 23 IMPROVEMENTS AND SUPPORTS HYPOTHESIS."

02:22PM 24 RIGHT?

02:22PM 25 A. YES.

02:22PM 1 Q. AND THEN HE SAYS, "WE ARE INITIATING MORE EXTENSIVE STUDY  
02:22PM 2 ACROSS TWO DAYS."  
02:22PM 3 DO YOU SEE THAT?  
02:22PM 4 A. YES.  
02:22PM 5 Q. AND HE SAYS, "THE GOAL OF THE STUDY IS TO ESTABLISH AND  
02:22PM 6 DEMONSTRATE OPTIMAL PROCEDURES FOR SAMPLE PROCESSING TO ENSURE  
02:22PM 7 RELIABLE TEST RESULTS."  
02:22PM 8 A. MY SCREEN JUST WENT BLANK. I THINK IT'S REBOOTING.  
02:22PM 9 Q. OKAY. DO YOU HAVE IT ON THE SCREEN?  
02:22PM 10 A. NO.  
02:22PM 11 Q. OKAY.  
02:22PM 12 THE COURT: IS IT ON THE JUROR'S SCREEN?  
02:22PM 13 YES.  
02:22PM 14 MR. COOPERSMITH: I THINK WE CAN HAVE YOU PULL THE  
02:22PM 15 HARD COPY DOCUMENT.  
02:23PM 16 THE WITNESS: IT SHOULD BE COMING UP.  
02:23PM 17 OH, THERE IT IS.  
02:23PM 18 BY MR. COOPERSMITH:  
02:23PM 19 Q. I'M JUST POINTING YOU TO THE EMAIL. I DON'T NEED TO READ  
02:23PM 20 IT AGAIN.  
02:23PM 21 BUT DO YOU SEE DANIEL RESPONDED?  
02:23PM 22 A. YES.  
02:23PM 23 Q. OKAY. LET'S TAKE A LOOK, DR. ROSENDORFF, AT  
02:24PM 24 EXHIBIT 20431.  
02:24PM 25 THIS IS ANOTHER EMAIL STRING AMONG YOU AND MR. BALWANI AND

02:24PM 1 DANIEL YOUNG.

02:24PM 2 DO YOU SEE THAT?

02:24PM 3 A. YES.

02:24PM 4 Q. AND MS. HOLMES?

02:24PM 5 A. YES.

02:24PM 6 Q. OKAY. AND THIS ALSO RELATES TO POTASSIUM?

02:24PM 7 A. YES.

02:24PM 8 Q. AND IT'S FROM JULY OF 2014?

02:24PM 9 A. YES.

02:24PM 10 MR. COOPERSMITH: YOUR HONOR, WE OFFER 20431.

02:25PM 11 MR. BOSTIC: NO OBJECTION.

02:25PM 12 THE COURT: IT'S ADMITTED. IT MAY BE PUBLISHED.

02:25PM 13 (DEFENDANT'S EXHIBIT 20431 WAS RECEIVED IN EVIDENCE.)

02:25PM 14 BY MR. COOPERSMITH:

02:25PM 15 Q. AND IN THIS EXHIBIT, IF YOU LOOK AT THE FIRST PAGE,

02:25PM 16 DR. YOUNG WRITES TO YOU, AND MR. BALWANI, AND MS. HOLMES,

02:25PM 17 POTASSIUM STATUS.

02:25PM 18 DO YOU SEE THAT?

02:25PM 19 A. YES.

02:25PM 20 Q. "IN PREPARATION FOR OUR DISCUSSION, I WANTED TO SEND OUT A

02:25PM 21 FEW UPDATES THAT WE CAN DISCUSS IN MORE DETAIL TOGETHER."

02:25PM 22 THERE'S A HEADING POTASSIUM ASSAY (P-PROTOCOL ON ADVIA)

02:25PM 23 RIGHT?

02:25PM 24 A. YES.

02:25PM 25 Q. HE WRITES, "DILUTED PROTOCOL VERSUS NEAT/PREDICATE

02:25PM 1 PROTOCOL CONTINUES TO PERFORM WELL."

02:25PM 2 DO YOU SEE THAT?

02:25PM 3 A. YES.

02:25PM 4 Q. "RUNNING FINGERSTICK SAMPLES NEAT COMPARE WELL TO RUNNING

02:25PM 5 FINGERSTICK SAMPLES DILUTED."

02:25PM 6 DO YOU SEE THAT?

02:25PM 7 A. YES.

02:25PM 8 Q. "RUNNING VENOUS SAMPLES DILUTED COMPARE WELL TO RUNNING

02:26PM 9 VENOUS SAMPLES NEAT."

02:26PM 10 RIGHT?

02:26PM 11 A. YES.

02:26PM 12 Q. THAT'S WHAT DR. YOUNG IS SAYING?

02:26PM 13 A. THAT'S WHAT HE'S SAYING.

02:26PM 14 Q. SO HE'S TRYING TO WORK ON THE ISSUES THAT WERE OF CONCERN;

02:26PM 15 IS THAT RIGHT?

02:26PM 16 A. YES.

02:26PM 17 Q. NOW, IF YOU GO BELOW THAT, DO YOU SEE AFTER THE CHART HE

02:26PM 18 WRITES, "BASED ON THIS, I DO NOT RECOMMEND ESTABLISHING A NEW

02:26PM 19 POTASSIUM REFERENCE RANGE AT THIS TIME FOR FINGERSTICK

02:26PM 20 SAMPLES."

02:26PM 21 DO YOU SEE THAT?

02:26PM 22 A. YES.

02:26PM 23 Q. AND THAT WAS A SUBJECT THAT YOU DISAGREED WITH DR. YOUNG

02:26PM 24 ABOUT; RIGHT?

02:26PM 25 A. YES.

02:26PM 1 Q. HE BELIEVED THAT THE REFERENCE RANGE SHOULD BE THE SAME  
02:26PM 2 FOR FINGERSTICK SAMPLES AND VENOUS SAMPLES; RIGHT?  
02:26PM 3 A. CORRECT.  
02:26PM 4 Q. AND YOU THOUGHT THAT THERE SHOULD BE A DIFFERENT REFERENCE  
02:26PM 5 RANGE?  
02:26PM 6 A. CORRECT.  
02:26PM 7 Q. AND SO IT WAS A SUBJECT THAT YOU AND DR. YOUNG DISAGREED  
02:26PM 8 WITH?  
02:26PM 9 A. CORRECT.  
02:26PM 10 Q. AND -- WELL, LET'S GO TO ANOTHER EXHIBIT, 20335.  
02:27PM 11 AND DO YOU SEE 20335 IS AN EMAIL WITH THE SUBJECT OF  
02:27PM 12 MEETING MINUTES?  
02:27PM 13 A. YES.  
02:27PM 14 Q. ABOUT CRITICAL REPORTING AND CTN RELEASING?  
02:27PM 15 A. YES.  
02:27PM 16 Q. AND THIS WAS FROM MONETTE ROCKEYMORE?  
02:27PM 17 A. YES.  
02:27PM 18 Q. AND SHE WAS ANOTHER EMPLOYEE WHO WORKED IN THE LAB?  
02:27PM 19 A. YES.  
02:27PM 20 Q. AND IT WAS TO YOU AND OTHERS ABOUT THIS SUBJECT OF  
02:28PM 21 CRITICAL REPORTING?  
02:28PM 22 A. YES.  
02:28PM 23 MR. COOPERSMITH: YOUR HONOR, WE OFFER 20335.  
02:28PM 24 MR. BOSTIC: NO OBJECTION.  
02:28PM 25 THE COURT: IT'S ADMITTED. IT MAY BE PUBLISHED.

02:28PM 1 (DEFENDANT'S EXHIBIT 20335 WAS RECEIVED IN EVIDENCE.)

02:28PM 2 BY MR. COOPERSMITH:

02:28PM 3 Q. IT SAYS, "HI ADAM,

02:28PM 4 "PLEASE SEE ATTACHED FOR THE MINUTES OF THE MEETING. TO

02:28PM 5 MAKE IT MORE CONVENIENT FOR EVERYONE, I HAVE ALSO INCLUDED

02:28PM 6 SCREENSHOT OF THE DISCUSSION WE HAD TODAY."

02:28PM 7 DO YOU SEE THAT?

02:28PM 8 A. YES.

02:28PM 9 Q. AND THIS IS A SCREENSHOT CAPTURING A DISCUSSION THAT WAS

02:28PM 10 HAD AT THIS PARTICULAR MEETING?

02:28PM 11 A. YES.

02:28PM 12 Q. AND THIS WAS AMONG LAB STAFF; RIGHT?

02:28PM 13 A. I'M SORRY.

02:28PM 14 Q. THIS WAS AMONG THE LAB STAFF, THIS MEETING?

02:28PM 15 A. I DON'T RECALL.

02:28PM 16 Q. OKAY. BUT AT LEAST THAT'S WHO IS ON THE EMAIL; RIGHT?

02:28PM 17 A. YES.

02:28PM 18 Q. AND IF YOU GO TO THE CHART --

02:28PM 19 A. OH, JUST THE EMAIL IS FROM HER TO ME.

02:28PM 20 Q. YES.

02:28PM 21 A. YES, THAT'S IT.

02:28PM 22 Q. SHE'S GIVING YOU THE MINUTES OF THE MEETING; RIGHT?

02:28PM 23 A. YES.

02:29PM 24 Q. FOR YOUR REVIEW.

02:29PM 25 AND ON THE CHART, IF YOU FOLLOW THE FLOW CHART, ON THE

02:29PM 1 UPPER LEFT OF THE FIRST BOX IT SAYS LIHEP CTN?

02:29PM 2 A. YES.

02:29PM 3 Q. AND THAT'S A TYPE OF CTN; RIGHT?

02:29PM 4 A. YES.

02:29PM 5 Q. AND SO IT'S A BLOOD COLLECTION DEVICE?

02:29PM 6 A. YES.

02:29PM 7 Q. AND LIHEP IS LITHIUM HEPARIN?

02:29PM 8 A. YES.

02:29PM 9 Q. AND THERE'S DIFFERENT TYPES OF CTN'S, BUT THAT'S ONE OF

02:29PM 10 THEM?

02:29PM 11 A. CORRECT.

02:29PM 12 Q. AND THEN THE LIHEP CTN, IF THERE ARE NORMAL RESULTS FOR

02:29PM 13 NAK OR CI, THAT'S SODIUM CHLORIDE OR POTASSIUM?

02:29PM 14 A. YES.

02:29PM 15 Q. AND THEN CHECK THE CTN IMAGE; RIGHT?

02:29PM 16 A. YES.

02:29PM 17 Q. BRIDGE OR INTERFACE -- IF IT'S BRIDGE OR INTERFACE OR

02:29PM 18 COMPROMISED, THEN YOU GO YES VOID ABNORMAL AND CRITICAL

02:29PM 19 RESULTS; RIGHT?

02:29PM 20 A. YES.

02:29PM 21 Q. BUT IF IT'S NOT BRIDGE OR INTERFERENCE OR COMPROMISED,

02:29PM 22 THEN RELEASE RESULTS.

02:29PM 23 THAT'S THE FLOW CHART; RIGHT?

02:29PM 24 A. YES.

02:29PM 25 Q. AND THEN ON THE BOX BELOW THE PROCEDURE IS LIHEP CTN, IF



02:30PM 1 IT'S NORMAL, GOOD TO RELEASE; RIGHT?

02:30PM 2 A. YES.

02:30PM 3 Q. AND THEN THERE'S A FURTHER PROCEDURE OF WHAT TO DO IF IT'S

02:30PM 4 ABNORMAL; RIGHT?

02:30PM 5 A. YES.

02:30PM 6 Q. AND THEN, YOU KNOW, I WON'T READ IT ALL, BUT THAT'S WHAT

02:30PM 7 THE FLOW CHART IS; RIGHT?

02:30PM 8 A. YES.

02:30PM 9 Q. OKAY. NOW, YOU, AS A BASIS, AS WELL FROM THE MEETING, YOU

02:30PM 10 IMPLEMENTED THAT PROCEDURE; RIGHT?

02:30PM 11 A. I DON'T RECALL.

02:30PM 12 Q. LET'S TAKE A LOOK AT 20336.

02:30PM 13 AND THIS IS ANOTHER EMAIL FROM YOU TO THE ENTIRE CLIA LAB

02:30PM 14 EMAIL GROUP?

02:30PM 15 A. YES.

02:30PM 16 Q. AND IT RELATES TO THE SAME TOPIC, CTN INTEGRITY AND

02:30PM 17 CRITICAL VALUES?

02:30PM 18 A. YES.

02:30PM 19 Q. AND IT SAYS -- WELL, I WON'T READ IT YET.

02:30PM 20 BUT IT'S AN EMAIL THAT YOU WROTE IN THE NORMAL COURSE OF

02:31PM 21 BUSINESS AT THERANOS; RIGHT?

02:31PM 22 A. YES.

02:31PM 23 MR. COOPERSMITH: YOUR HONOR, WE OFFER 20336.

02:31PM 24 MR. BOSTIC: NO OBJECTION.

02:31PM 25 THE COURT: IT'S ADMITTED. IT MAY BE PUBLISHED.

02:31PM 1 (DEFENDANT'S EXHIBIT 20336 WAS RECEIVED IN EVIDENCE.)

02:31PM 2 BY MR. COOPERSMITH:

02:31PM 3 Q. AND THEN IT SAYS, "CLIA,

02:31PM 4 "PLEASE REVIEW THE FOLLOWING SOP REGARDING CTN INTEGRITY  
02:31PM 5 AND CRITICAL VALUES."

02:31PM 6 RIGHT?

02:31PM 7 A. YES.

02:31PM 8 Q. AND THIS IS A PROCEDURE THAT YOU'RE IMPLEMENTING?

02:31PM 9 A. YES.

02:31PM 10 Q. AND IF YOU GO TO PAGE 3 OF THE DOCUMENT, YOU SEE IT'S THE  
02:31PM 11 SAME FLOW CHART THAT WE JUST REVIEWED?

02:31PM 12 A. YES.

02:31PM 13 Q. AND SO BASICALLY WHAT CAME OUT OF THE MEETING WAS A COUPLE  
02:31PM 14 OF FLOW CHARTS AND THEN YOU IMPLEMENT THAT AS A PROCEDURE;  
02:31PM 15 RIGHT?

02:31PM 16 A. YES.

02:31PM 17 Q. OKAY. AND IT HAD TO DO WITH REPORTING CRITICAL VALUES FOR  
02:31PM 18 ASSAYS, INCLUDING POTASSIUM?

02:31PM 19 A. YES.

02:31PM 20 Q. OKAY. LET'S GO TO 7490.

02:32PM 21 EXHIBIT 7490 IS AN EMAIL STRING -- THE TOP ONE IS BETWEEN  
02:32PM 22 YOU AND MR. BALWANI AND OTHERS, AND THEN THERE ARE OTHER EMAILS  
02:32PM 23 GOING ON THE PAGE WITH OTHERS.

02:32PM 24 DO YOU SEE THAT?

02:32PM 25 A. YES.

02:32PM 1 Q. AND IT'S AN EMAIL THAT WAS SENT REGARDING CRITICAL ISE'S?

02:32PM 2 A. YES.

02:32PM 3 Q. AND THIS WAS ON OCTOBER 27TH, 2014?

02:32PM 4 A. YES.

02:32PM 5 Q. AND IT RELATED TO THE SAME TOPIC WE HAVE BEEN DISCUSSING,

02:32PM 6 THE USE OF CRITICAL ISE'S, WHICH INCLUDED POTASSIUM?

02:32PM 7 A. YES.

02:32PM 8 MR. COOPERSMITH: YOUR HONOR, WE OFFER EXHIBIT 7490.

02:32PM 9 MR. BOSTIC: YOUR HONOR, HEARSAY OBJECTION AS TO THE

02:32PM 10 EMAIL FROM THE DEFENDANT.

02:33PM 11 (PAUSE IN PROCEEDINGS.)

02:33PM 12 THE COURT: MR. COOPERSMITH, IT LOOKS LIKE IT'S THE

02:33PM 13 TOP TWO EMAILS ON THAT FIRST PAGE.

02:33PM 14 MR. COOPERSMITH: I ASSUME MR. BOSTIC WAS OBJECTING

02:33PM 15 TO THE TOP EMAIL FROM MR. BALWANI TO DR. ROSENDORFF AND OTHERS.

02:33PM 16 MR. BOSTIC: CORRECT, YOUR HONOR.

02:33PM 17 THE COURT: THERE'S TWO, I THINK, TWO EMAILS.

02:33PM 18 THAT'S RIGHT.

02:33PM 19 MR. COOPERSMITH: WELL, MR. BOSTIC CAN CLARIFY. I

02:33PM 20 ASSUMED HIS OBJECTION WAS ONLY TO THE TOP EMAIL.

02:33PM 21 MR. BOSTIC: SO, YOUR HONOR, I THINK THE SAME ISSUE

02:33PM 22 DOES APPLY NOT TO THE TOP TWO ON THAT PAGE, BUT THE TWO

02:33PM 23 MESSAGES FROM THE DEFENDANT ON THAT PAGE.

02:33PM 24 THE COURT: ALL RIGHT. I'LL SUSTAIN IT UNLESS YOU

02:33PM 25 HAVE ANOTHER EXPLANATION OR USE.

02:33PM 1 MR. COOPERSMITH: SURE. WHY DON'T WE REDACT THOSE  
02:33PM 2 TWO EMAILS, AND IF THERE'S NO FURTHER OBJECTION, I WOULD OFFER  
02:33PM 3 IT THAT WAY.

02:33PM 4 THE COURT: OKAY. THAT'S FINE.

02:34PM 5 WITH THOSE REDACTIONS THEN, IT WOULD BE ADMITTED, AND IT  
02:34PM 6 MAY BE PUBLISHED.

02:34PM 7 (DEFENDANT'S EXHIBIT 7490 WAS RECEIVED IN EVIDENCE.)

02:34PM 8 BY MR. COOPERSMITH:

02:34PM 9 Q. AND I'M JUST REALLY GOING TO REFER YOU TO A PARTICULAR  
02:34PM 10 EMAIL YOU SENT ON OCTOBER 27TH, 2014, AT 3:28 P.M.

02:34PM 11 DO YOU SEE THAT IN THE MIDDLE OF THE PAGE?

02:34PM 12 A. YES.

02:34PM 13 Q. AND IT SAYS, REGARDING CRITICAL ISE'S, "WE HAD A MEETING  
02:34PM 14 WITH TINA, NISHIT, AND THE CLIA LEADERSHIP ABOUT 6 WEEKS AGO TO  
02:34PM 15 COME UP WITH A CONSISTENT PRACTICE."

02:34PM 16 RIGHT?

02:34PM 17 A. YES.

02:34PM 18 Q. AND THAT WAS REGARDING HOW TO HANDLE CRITICAL ISE'S;  
02:34PM 19 RIGHT?

02:34PM 20 A. YES.

02:34PM 21 Q. AND THAT WAS A MEETING THAT YOU CONDUCTED WITHOUT  
02:34PM 22 MR. BALWANI; RIGHT?

02:34PM 23 A. I DON'T REMEMBER IF MR. BALWANI WAS AT THE MEETING OR NOT.  
02:35PM 24 SORRY.

02:35PM 25 Q. OKAY. BUT IN ANY EVENT, YOU'RE REPORTING IN THIS EMAIL

02:35PM 1 THAT YOU'RE REPORTING TO MR. BALWANI THAT YOU HAD HAD AN  
02:35PM 2 EARLIER MEETING?

02:35PM 3 A. YES.

02:35PM 4 Q. RIGHT?

02:35PM 5 OKAY. LET'S TAKE A LOOK AT EXHIBIT 7503.

02:35PM 6 DO YOU SEE THIS IS ANOTHER EMAIL STRING AMONG YOU,  
02:35PM 7 MR. BALWANI, AND DR. DOSHI, AND ELIZABETH HOLMES AND OTHERS.

02:36PM 8 DO YOU SEE THAT?

02:36PM 9 A. YES.

02:36PM 10 I DON'T SEE MY NAME ANYWHERE HERE. I'M SORRY.

02:36PM 11 Q. OKAY.

02:36PM 12 A. I'M JUST LOOKING IT OVER, AND YOU SAID AMONG YOU, AND I  
02:36PM 13 DON'T MEAN MY NAME.

02:36PM 14 Q. OKAY. LET'S PUT THAT ONE ASIDE AND RESERVE THAT.

02:36PM 15 OKAY. LET'S GO TO A DIFFERENT SUBJECT IN THE TIME WE HAVE  
02:36PM 16 REMAINING TODAY, AND THAT'S THE SUBJECT OF HCG.

02:36PM 17 DO YOU REMEMBER TALKING ABOUT THAT ON DIRECT EXAM?

02:36PM 18 A. YES.

02:37PM 19 Q. SO IF YOU PUT UP EXHIBIT 9196, MR. ALLEN, WHICH IS ALREADY  
02:37PM 20 IN EVIDENCE, THAT'S THE VALIDATION REPORT FOR HCG ON EDISON?

02:37PM 21 A. YES.

02:37PM 22 Q. AND THAT'S FROM MARCH 2014.

02:37PM 23 DO YOU SEE THAT?

02:37PM 24 A. YES.

02:37PM 25 Q. SO TO THE EXTENT THAT THERE ARE -- WELL, I WITHDRAW THAT.

02:37PM 1 BUT AS WE DISCUSSED BEFORE, THE PREREQUISITE FOR RUNNING  
02:37PM 2 AN ASSAY IN THE CLIA LAB WOULD BE FOR ONE OF THESE VALIDATION  
02:37PM 3 REPORTS TO BE SIGNED; RIGHT?

02:37PM 4 A. CORRECT.

02:37PM 5 Q. LET'S GO TO EXHIBIT 20371.

02:38PM 6 DO YOU SEE THIS IS AN EMAIL STRING ABOUT HAVING A MEETING  
02:38PM 7 ON MAY 30TH, 2014?

02:38PM 8 A. YES.

02:38PM 9 Q. AND IT'S WITH SEASON FLORES, WHO IS THE EXECUTIVE  
02:38PM 10 ASSISTANT TO ELIZABETH HOLMES?

02:38PM 11 A. YES.

02:38PM 12 Q. AND IT'S REGARDING -- WELL, IT'S ABOUT A SUBJECT PERTINENT  
02:38PM 13 TO THE CLIA LAB; RIGHT?

02:38PM 14 A. YEAH. I DON'T KNOW WHAT THE EXACT TOPIC IS, BUT IT SAYS  
02:38PM 15 CLIA MEETING, IMPORTANCE HIGH, YEAH.

02:38PM 16 Q. OKAY. AND THE MEETING INVITE IS IT 3:34 P.M. ON MAY 30TH?

02:38PM 17 A. YES.

02:38PM 18 Q. AND THE REQUEST IS FOR THE MEETING AT 4:00 P.M.; RIGHT?

02:39PM 19 A. YES.

02:39PM 20 Q. SO PRETTY QUICKLY AFTER THE EMAIL?

02:39PM 21 A. YEP.

02:39PM 22 MR. COOPERSMITH: YOUR HONOR, WE OFFER  
02:39PM 23 EXHIBIT 20371.

02:39PM 24 MR. BOSTIC: NO OBJECTION.

02:39PM 25 THE COURT: IT'S ADMITTED. IT MAY BE PUBLISHED.

02:39PM 1 (DEFENDANT'S EXHIBIT 20371 WAS RECEIVED IN EVIDENCE.)

02:39PM 2 THE COURT: MR. COOPERSMITH.

02:39PM 3 MR. COOPERSMITH: YES, OF COURSE, YOUR HONOR.

02:39PM 4 Q. DO YOU SEE, DR. ROSENDORFF, THERE'S AN EMAIL REFERRED TO  
02:39PM 5 FROM MS. FLORES, "ELIZABETH HAS ASKED ME TO COORDINATE A CLIA  
02:39PM 6 MEETING THIS AFTERNOON FOR 4:00 P.M."

02:39PM 7 DO YOU SEE THAT?

02:39PM 8 A. YES.

02:39PM 9 Q. AND AGAIN, THAT'S AT 3:34 P.M.; RIGHT?

02:39PM 10 A. YES.

02:39PM 11 Q. AND SHE ASKS YOU FOR A LIST OF ATTENDEE; RIGHT?

02:39PM 12 A. YES.

02:39PM 13 Q. AND YOU RESPOND, "SEASON,

02:39PM 14 IF IT'S THE WHOLE CLIA, THEN CLIA SHOULD BE INVITED (THERE  
02:39PM 15 IS A DIRECTORY). IF IT IS JUST CURRENT CLIA LEADERSHIP, THEN  
02:39PM 16 THE FOLLOWING PEOPLE SHOULD BE INVITED."

02:39PM 17 AND THEN YOU ARE IDENTIFYING THE PEOPLE WHO YOU THOUGHT  
02:40PM 18 SHOULD ATTEND; RIGHT?

02:40PM 19 A. YES.

02:40PM 20 Q. AND THAT INCLUDES MS. ALAMDAR; RIGHT?

02:40PM 21 A. YES.

02:40PM 22 Q. AND MR. GEE?

02:40PM 23 A. YES.

02:40PM 24 Q. AND OTHERS; RIGHT?

02:40PM 25 A. YES.

02:40PM 1 Q. OKAY. LET'S GO TO EXHIBIT 4145.

02:41PM 2 OKAY. I THINK THIS IS ALREADY IN EVIDENCE, SO IF WE CAN

02:41PM 3 PUBLISH IT, YOUR HONOR.

02:41PM 4 THE COURT: YES.

02:41PM 5 BY MR. COOPERSMITH:

02:41PM 6 Q. AND THIS IS ON THE SAME DAY AS THE LAST EXHIBIT THAT WE

02:41PM 7 LOOKED AT; RIGHT?

02:41PM 8 A. YES.

02:41PM 9 Q. AND ELIZABETH HOLMES SAYS, "I'VE DONE MANY MEETINGS ON

02:41PM 10 THIS TODAY"; RIGHT?

02:41PM 11 A. YES.

02:41PM 12 Q. REGARDING HCG?

02:41PM 13 A. YES.

02:41PM 14 Q. NOW, YOU ON DIRECT WERE ASKED -- LET'S JUST GO TO 28466.

02:41PM 15 IF WE CAN SHOW THAT ON DR. ROSENDORFF'S SCREEN, PLEASE.

02:41PM 16 EXHIBIT 28466, AND PARTICULARLY PAGE 7. IF YOU COULD REFER TO

02:42PM 17 THAT PAGE?

02:42PM 18 MR. BOSTIC: YOUR HONOR, RELEVANCE TO DISPLAYING

02:42PM 19 THIS TO THE WITNESS AT THIS POINT.

02:42PM 20 THE COURT: DO YOU WANT TO -- WHY DON'T YOU ASK A

02:42PM 21 QUESTION.

02:42PM 22 MR. COOPERSMITH: SURE.

02:42PM 23 Q. DR. ROSENDORFF, DO YOU REMEMBER TESTIFYING ON WEDNESDAY

02:42PM 24 ABOUT HCG?

02:42PM 25 A. YES.



02:42PM 1 Q. AND DO YOU REMEMBER TESTIFYING THAT YOU MADE A DECISION IN  
02:42PM 2 AN EMAIL THAT USE OF EDISON FOR HCG TESTING NEEDED TO STOP?  
02:42PM 3 A. YES.  
02:42PM 4 Q. AND THAT WAS ON MAY 30TH?  
02:42PM 5 A. I DON'T RECALL THE DATE, SIR.  
02:42PM 6 Q. OKAY. WE CAN LOOK AT THAT.  
02:42PM 7 BUT IN ANY EVENT, YOU RECALL THAT EMAIL; RIGHT?  
02:42PM 8 A. YES.  
02:42PM 9 Q. AND THAT YOU WERE ASKED A QUESTION, YOU REMEMBER, ABOUT  
02:42PM 10 DID YOU EVER GO BACK ON THE DECISION AND AUTHORIZE THERANOS TO  
02:42PM 11 USE THE EDISON?  
02:42PM 12 AND YOU SAID YOU DID NOT; RIGHT?  
02:42PM 13 A. YES.  
02:42PM 14 Q. THAT'S YOUR TESTIMONY, SIR?  
02:42PM 15 A. YES.  
02:42PM 16 Q. OKAY. LET'S TAKE A LOOK AT 20564.  
02:43PM 17 YOUR HONOR, THESE NEXT TWO EMAILS WILL BE THE LAST EMAILS  
02:43PM 18 I THINK BEFORE WE HAVE TO BREAK AT 2:45, IF THAT'S OKAY.  
02:43PM 19 THE COURT: OF COURSE.  
02:43PM 20 BY MR. COOPERSMITH:  
02:43PM 21 Q. 206 -- I'M SORRY, 20564.  
02:43PM 22 DO YOU HAVE THAT IN FRONT OF YOU?  
02:43PM 23 A. YES.  
02:43PM 24 Q. AND THIS IS AN EMAIL STRING AMONG YOURSELF AND MS. ALAMDAR  
02:43PM 25 AND CHINMAY PANGARKAR.

02:43PM 1 DO YOU SEE THAT?

02:43PM 2 A. YES.

02:43PM 3 Q. AND THERE ARE OTHERS ON THE EMAIL STRING AS WELL; RIGHT?

02:43PM 4 A. YES.

02:43PM 5 Q. AND THIS RELATES TO HCG?

02:43PM 6 A. YES.

02:43PM 7 Q. AND THIS WAS FROM JUNE 5TH AND 6TH OF 2014?

02:43PM 8 A. YES.

02:43PM 9 Q. SO IF THE EMAIL THAT YOU SENT TO STOP TESTING ON EDISON

02:44PM 10 WAS ON MAY 30TH, THIS WOULD JUST BE A FEW DAYS AFTER THAT;

02:44PM 11 RIGHT?

02:44PM 12 A. YES.

02:44PM 13 Q. OKAY. AND THEN IF YOU GO TO THE EMAIL ON THE BOTTOM OF

02:44PM 14 PAGE 1, AND IT CONTINUES TO PAGE 2, IT'S FROM HODA ALAMDAR AT

02:44PM 15 1:20 P.M. TO YOU, DR. ROSENDORFF.

02:44PM 16 A. YES.

02:44PM 17 Q. IT SAYS, WITH REGARD TO A PARTICULAR SAMPLE, "TO CONFIRM,

02:44PM 18 I CAN RELEASE" --

02:44PM 19 MR. BOSTIC: YOUR HONOR, THIS IS NOT IN EVIDENCE.

02:44PM 20 MR. COOPERSMITH: OH, IT ISN'T.

02:44PM 21 I OFFER THESE IN THAT CASE.

02:44PM 22 MR. BOSTIC: 901.

02:44PM 23 MR. COOPERSMITH: YOUR HONOR, HE'S IDENTIFIED IT AS

02:44PM 24 AN EMAIL THAT HE'S FAMILIAR WITH AND SENT AND RECEIVED.

02:44PM 25 THE COURT: WHAT IS IT THAT -- ARE YOU SEEKING TO

02:44PM 1 INTRODUCE THE ENTIRETY OF THIS DOCUMENT, ALL OF THE PAGES HERE,  
02:44PM 2 OR WHAT?

02:45PM 3 MR. COOPERSMITH: YOUR HONOR, I'M INTENDING TO  
02:45PM 4 INTRODUCE THIS AS AN EMAIL STRING.

02:45PM 5 THE COURT: ALL OF THIS?

02:45PM 6 MR. COOPERSMITH: YES, YOUR HONOR.

02:45PM 7 THE COURT: I'LL ALLOW IT. IT CAN BE ADMITTED AND  
02:45PM 8 PUBLISHED.

02:45PM 9 (DEFENDANT'S EXHIBIT 20564 WAS RECEIVED IN EVIDENCE.)

02:45PM 10 MR. COOPERSMITH: THANK YOU, YOUR HONOR.

02:45PM 11 Q. IF YOU GO TO THE BOTTOM EMAIL, YOU SEE IT SAYS FROM  
02:45PM 12 HODA ALAMDAR TO DR. ROSENDORFF, AND HER QUESTION, "TO CONFIRM,  
02:45PM 13 I CAN RELEASE THE HCG RESULT?"

02:45PM 14 DO YOU SEE THAT?

02:45PM 15 A. YES.

02:45PM 16 Q. AND THEN YOU WRITE BACK RIGHT AFTER THAT, "PLEASE HOLD THE  
02:45PM 17 RESULT UNTIL CHINMAY IS DONE WITH HIS RLU STUDY TODAY -- WE CAN  
02:45PM 18 RUN CTN HCG BUT NEED TO HOLD RESULTS UNTIL WE KNOW WHAT THE  
02:45PM 19 INVALID CUTOFF IS."

02:45PM 20 DO YOU SEE THAT?

02:45PM 21 A. YES.

02:45PM 22 Q. AND SO YOU WANTED TO HOLD EVERYTHING UNTIL CHINMAY WAS  
02:45PM 23 DONE WITH HIS STUDY?

02:45PM 24 A. YES.

02:45PM 25 Q. AND THEN MS. ALAMDAR WRITES, "ADAM/CHINMAY,

02:45PM 1 "ANY UPDATES ON THE HCG? WE HAVE MULTIPLE PATIENTS  
02:45PM 2 PENDING TO BE RELEASED."  
02:46PM 3 RIGHT?  
02:46PM 4 A. YES.  
02:46PM 5 Q. AND THEN YOU WRITE, "HODA,  
02:46PM 6 "CHINMAY WILL BE IMPLEMENTING A SCRIPT SHORTLY TO  
02:46PM 7 REQUALIFY VALID VERSUS INVALID HCG VALUES. STAY TUNED."  
02:46PM 8 RIGHT?  
02:46PM 9 A. YES.  
02:46PM 10 Q. YOU'RE STILL WAITING FOR DR. PANGARKAR'S STUDY; RIGHT?  
02:46PM 11 A. YES.  
02:46PM 12 Q. AND THEN HE SAYS, "WE ARE WORKING ON AND WILL LET YOU KNOW  
02:46PM 13 WHEN IT IS READY."  
02:46PM 14 DO YOU SEE THAT?  
02:46PM 15 A. YES.  
02:46PM 16 Q. AND THEN ABOVE THAT DR. PANGARKAR SENDS AN EMAIL TO YOU  
02:46PM 17 AND HE WRITES, "HI HODA," WITH REGARDS TO THE SAMPLES, "ARE  
02:46PM 18 READY TO BE RELEASED. THE LATEST RESULTS THAT YOU CAN RELEASE  
02:46PM 19 ARE IN."  
02:46PM 20 AND HE GIVES AN S DRIVE LOCATION; RIGHT?  
02:46PM 21 A. YES.  
02:46PM 22 Q. AND SO HE INFORMS YOU THAT HE IS RELEASING THE RESULTS?  
02:46PM 23 A. YES.  
02:46PM 24 Q. AND YOU HAD TOLD HIM THAT WHEN THE STUDY WAS COMPLETED,  
02:46PM 25 THAT'S WHAT COULD HAPPEN; RIGHT?

02:46PM 1

A. YES.

02:46PM 2

MR. COOPERSMITH: OKAY. NO FURTHER QUESTIONS FOR

02:46PM 3

TODAY, YOUR HONOR.

02:46PM 4

THE COURT: ALL RIGHT. THANK YOU. LADIES AND

02:46PM 5

GENTLEMEN, WE'LL TAKE OUR WEEKEND BREAK NOW.

02:46PM 6

AND, YES, YOU CAN --

02:46PM 7

THE WITNESS: I'M SORRY.

02:46PM 8

THE COURT: RESTRAIN YOUR ENTHUSIASM, DOCTOR.

02:46PM 9

(LAUGHTER.)

02:47PM 10

THE COURT: WE'LL BE BACK TUESDAY, TUESDAY NEXT AT

02:47PM 11

9:00 A.M.

02:47PM 12

WHEN WE COME BACK, I THINK WHAT WE'RE GOING TO DO, MUCH

02:47PM 13

LIKE IN HOCKEY, WE'LL DO A LINE CHANGE AND THE FRONT SEATS WILL

02:47PM 14

MOVE TO THE BACK AND THE BACK TO THE FRONT, AND WE MAY HAVE

02:47PM 15

SOME OTHER ADJUSTMENTS TO MAKE, BUT WE'LL DO THAT.

02:47PM 16

LET ME REMIND YOU OF THE ADMONITION. DURING YOUR WEEKEND

02:47PM 17

AND MONDAY OFF, PLEASE DO NOT DO ANY INVESTIGATION, DO NOT

02:47PM 18

DISCUSS, READ, LISTEN TO OR IN ANY WAY TRY TO LEARN ANYTHING

02:47PM 19

ABOUT THIS CASE.

02:47PM 20

HAVE A LOVELY WEEKEND. I HOPE THE RAIN CONTINUES. WE

02:47PM 21

NEED IT.

02:47PM 22

ENJOY. AND WE'LL SEE YOU NEXT TUESDAY.

02:47PM 23

THANK YOU.

02:47PM 24

AND, DR. ROSENDORFF, WE'LL SEE YOU TUESDAY AS WELL. THANK

02:47PM 25

YOU.

02:47PM 1 THE WITNESS: THANK YOU, YOUR HONOR.

02:48PM 2 (JURY OUT AT 2:48 P.M.)

02:48PM 3 THE COURT: PLEASE BE SEATED. THANK YOU.

02:48PM 4 THE RECORD SHOULD REFLECT THAT OUR JURY HAS LEFT FOR THEIR

02:48PM 5 WEEKEND, AND DR. ROSENDORFF HAS LEFT THE COURTROOM.

02:48PM 6 ANYTHING BEFORE WE BREAK, COUNSEL?

02:48PM 7 MR. COOPERSMITH: NO, YOUR HONOR.

02:48PM 8 MR. BOSTIC: NO, YOUR HONOR.

02:48PM 9 THE COURT: ALL RIGHT. GREAT. HAVE A GREAT

02:48PM 10 WEEKEND. WE'LL SEE YOU NEXT WEEK. THANK YOU.

02:48PM 11 (COURT ADJOURNED AT 2:48 P.M.)

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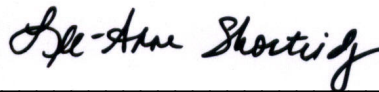
CERTIFICATE OF REPORTERS

WE, THE UNDERSIGNED OFFICIAL COURT REPORTERS OF THE  
UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF  
CALIFORNIA, 280 SOUTH FIRST STREET, SAN JOSE, CALIFORNIA, DO  
HEREBY CERTIFY:

THAT THE FOREGOING TRANSCRIPT, CERTIFICATE INCLUSIVE, IS  
A CORRECT TRANSCRIPT FROM THE RECORD OF PROCEEDINGS IN THE  
ABOVE-ENTITLED MATTER.



IRENE RODRIGUEZ, CSR, CRR  
CERTIFICATE NUMBER 8076



LEE-ANNE SHORTRIDGE, CSR, CRR  
CERTIFICATE NUMBER 9595

DATED: APRIL 22, 2022